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International Court of Justice

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Official transcript of the International Military Tribunal, in the matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 16 August 1946, 1000-1700, Lord Justice Lawrence presiding.

THE PRESIDENT: Dr. Boehm.

DR. BOEHM: Mr. President, in answer to the question of how long the redirect examination would be, I gave too long a time. After looking through the material, I believe I can say that much of it has nothing to do with the SA; and that I can abbreviate the examination.

REDIRECT EXAMINATION

BY DR. BOEHM:

Q In connection with document 4011, Witness, I wanted to ask you again in connection with the report that 21 groups participated in the transport of prisoners, how did the report originate and at whose orders did these people transport the prisoners; that is, were these people ordered by the SA to transport prisoners, or was this activity carried out in the capacity of these men as soldiers?

A The report originated from the activity reports which the groups made every month and later every three months. The men were under the Wehrmacht for the purpose of guarding the prisoners.

Q Do you know the number of the SA-men who were active here as Wehrmacht members in connection with the transport of prisoners?

A I do not know the number. They were quite small units.

Q The prosecutor yesterday said that this so-called war training before and after the beginning of the Second World War was the same. I should like to ask you, Mr. Juettner, before the first of September, 1939, was shooting taught, or was it only small caliber shooting?

A Only small caliber shooting such as was practiced previously; but after the beginning of the war, we laid more stress on the war sport exercises, and the ordinary sport exercises were put somewhat into the background.

Q Do you agree with the affidavits in this connection which say it was forbidden in the SA to base maneuverson military situations?

A That was forbidden, and we were not able to do so because the SA, to a large extent, did not have any previous military training in order to base the exercises on military situations.

Q Then a historical questions. On the basis of theassociation the prosecution made in connection with the statements on Page 15 of the document 4 CII, do you know, Mr. Juettner, when the Mamelland became part of the Third Reich? Perhaps, do you know that it was in March, 1939?

A I can't say that exactly, but it is probably true.

Q This sivalski among the countries Estonia, Latvia, and Lithuania, and part of the province of East Prussia; I believe I can say the prosecutio: is still confusing the SA-group Ortsland with the so-called Reichscommisaria'

A In East Prussia, the SA-Group Ostland, we had an SA; we organized and lead them. From thewest of the Ostland, Lithuania, Latvia, etc., there was never a German SA which was organized or directed by us. This question is probably connected with a document, an excerpt of which is registered by the prosecution. Perhaps I may explain to your Lordship that since the beginning of the cross examination, I have been in solitary confinement and have no connection with the SA. For that reason, I believe I can comment on the document presented yesterday which accused the SA. I believe I can give the following three sentences. In the first place, to such serious documents, one can comment when one has been able to look them over in peace and quiet, -- that was not possible for me. In the second place, numerous documents, excerpts of which were read, no questions were asked about them. For example, the Blomberg letter. In the third place, the documents which were submitted to me, questions were asked only which had no connection with the facts contained. For example, the report of Brigade 50 requesting the dissolution of a synagogue.

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Even today I consider this report false because it is impossible according to the content and because what is said in the report could not be carried out in view of the time, but I believe that the Defense will clear up the doubts through its questions.

Q From Document 4011 the Prosecution concludes that the SA Feuhrung concerned themselves with foreign nations. In this connection, I should like to ask you if you did do that and if that would have been your intention?

A We did not concern our selves with foreign nations in the SA. That was never our intention.

Q Witness, you surely know the order of the Reich Government that in the Reichkommissariat Ostland the establishment of Party branches was prohibited. In Esthonia, Latvia or Lithuania could an SA Group or SA Brigade exist?

A No, it could not exist, and we did not organize any. The men of the SA who were employed there were not under the SA Fuehrung. For example, there were the SA Fuehrers Kunze and Kramer. They were Fuehrers for special purposes. They were not under the SA leadership when they were employed there. These men wore a different uniform. Perhaps confusion arose from this.

Q Would you have violated such an order of the Reich Government?

A No, under no circumstances.

Q Would it have been possible for the SA to have been entrusted with the administration of the Ghetto in Vilna?

A The SA did not set up or administer ghettos,and the SA as an organization was at no time entrusted with such tasks.

THE PRESIDENT: Dr. Boehm, when you speak of an order of the Reich Government, are you referring to a document?

DR. BOEHM: No, an order of the Reich Government which is generally known.

BY DR. BOEHM:

Q An affidavit of Mr. Szloma Gol was submitted yesterday. In that connection I should like to ask you whether the City Commissar of Vilna come under you in any way? Did you have any authority over him, and did he carry out any assignments for you?

A None of the Kommissars in the Ostland was under the SA Leadership. and they did not receive orders from the SA. If I recall correctly. three more SA members

were also mentioned yesterday.

Q Was the Provincial Kommissar of Vilna ever under you?

A I have already said that the Kommissars were not subordinate to the SA Leadership.

Q This affidavit does not indicate whether the man concerned is a Kommissar. It says that the expert on Jewish questions was an SA officer. Muerer. Was he unde you in any connection with respect to his activity in Vilna?

A The personal activity of the Kommissars was not under the SA leadership. This man who is mentioned was not either. If he was employed there, he was only from the SA for the duration of his assignment there, and he carried out his tasks there without the SA Leadership being able to inflence him in any way.

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Q. In connection with the Indictment against another organization, the Prosecution submitted a document, Exhibit US 276. I shall quote on page two of this document, the last paragraph:

"In thefirst hours after the entry, even though under considerable difficulties, native anti-Semitic forces were excited to prgroms against the Jews. According to orders, the Security Police was determined to solve the Jewish question with all means."

In the case against the SD the Prosecution says that it was the Security Police who caused pogroms in Vilna, Schaulen and Kovno. In the case against the SA, on the other hand, the Prosecution says that it was the SA. As Defense Counsel, I should like to know which organization is actually responsible for the Jewish pogroms in this cities, and I ask you, did the Supreme SA Leadership through orders or instructions have any part in any excess or any measures against Jews in this district?

A. At no time and under no circumstances.

Q. And then an affidavit was submitted yesterday by a Mr. Khaim Kagan. The witness says that he saw girls in SA uniforms. Were there ever femanle SA members?

A. I have already answered that. We did not have female SA members -- never.

Q. The senselessness of this assignment of guilt in the affidavit -- is it not made obvious by the fact that it asserts that it had to be SA people because they wore a brown uniform? This assertion is made repeatedly in this affidavit.

A. In my testimony yesterday and the day before yesterday, I pointed out on various occasions that in the course of years, everyone who wore a brown shirt was called an SA man. That seems to be the case here too, although those concerned had nothing to do with the SA.

Q. It is the same with the affidavit of Mr. Laib Kibart; the people whom he mentions and whom he calls SA men, he identifies as SA men because they wore brown uniforms with a swastika armband. Were not the swastika armband and the brown uniform worn by others, and primarily by those people who worked in the

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Eastern Ministry and the duties connected with it? There was an East uniform. Was this uniform worn by the SA, and could it be confused with the uniform of the SA?

A. The East uniform was worn by those who were employed in this task, employed by the East Administration, not by the SA. It was brown, and I believe that it had the swastika armband, and, without doubt, like any other brown uniform, it could be consued with the SA uniform.

Q. The document PS 1435 was submitted yesterday. It is a letter from thd Reich Kommissar for the Ostland. It was written on 18 June 1943. I wanted to ask you, Did you or did the SA Fuehrung at any time -- were you the superiors of the Reich Kommissars for the Ostland?

A. No. No Reich Kommissars in the Ostland were under SA Leadership. They were under the East Administration. The SA Leadership had no influence on this. It was not its function.

Q. Now I should like to show you the paragraph which yesterday was the subject of statements by the Prosecutor but which, in my opinion, was taken out of context. It reads:

"On the order of the Chief --"

THE PRESIDENT: What is the reference?

DR. BOEHM: That is Number 1435-PS, Mr. President. It is the second paragraph from the end in this document.

BY DR. BOEHM:

"On orders of the Chief of Anti-Partisan Activity SS Obergruppenfuehrer Von Dem Bach, units of Wehrmannschaften took part in the undertakings. SA Standartenfuehrer Kunze led the Wehrmannschaften, which included 90 members of my group and the District Kommissariat Minsk. Our men returned from the undertaking without loss yesterday. I refused commitment of officials and employees of the General Kommissariat in the army rear area. The men employed by me were not deferred in order to combat partisans in the place of the Wehrmacht and the police. One railroad man was wounded (shot in the lungs)."

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Does this not show that these were railroad men and officials assigned to combat partisans, as had to be on the basis of the Soviet Russia order? Could this have been an SA detail?

A. No, under no circumstances. They were called Wehrmannschaften under an SA Fuehrer Kunze, who had for some time been out of the active Leadership Corps of the SA. He was a leader for special use. He was in the East. I have just learned that he was used in the East.

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He was employed in connection with the East Administration. If he trained men, they were not our own. There were none there. We did not organize, train them or influence them in any way.

Q Then it is probably true, if I assume that Kunze was an official of the Kommissariat Minsk, he had nothing to do with the Supreme S.S. Leadership? That is true?

THE PRESIDENT : Will you ask the witness, Dr. Boehm, what "Wehrmannschaften" means literally?

DR. BOEHM : The witness has already commented on that yesterday by distinguishing between "S.S. Wehrmannschaften" and "Wehrmannschaften" of the type mentioned here.

THE PRESIDENT : I asked what the word meant literally.

BY DR. BOEHM :

Q Witness, please explain to the President what you understand under the term "Wehrmannschaften."

A Your Lordship, you may distinguish between "S.S. Wehrmannschaften" and "Wehrmannschaften" of the type mentioned here. The "S.S. Wehrmannschaften" according to the decree of Adolf Hitler of January, 1939, were to be set up by the S.S. in the Reich from released soldiers so that they could be kept ready for the front physically and mentally. The "Wehrmannschaften" mentioned here were given this designation without our having anything to do with it. I imagine that in this "Wehrmannschaften" men were gathered together to combat partisans in the occupied territory.

THE PRESIDENT : The witness still has not told me what the word means. It is a German word. All we want is the translation. Is it possible to translate it?

DR. BOEHM : If I may, I will explain it. I would say that it is a group of persons determined to ward off an attack from any side.

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THE PRESIDENT : Do you agree with what your counsd has said, or what the organization counsel has said as to the meaning of the word?

THE WITNESS : One can define it differently, too. It is a unit under a leader, in this case for committment against enemy action in the occupied territory that is behind the front, a defense organization.

DR. BOEHM : I believe that it is necessary, Mr. President, for me to demonstrate to you with the aid of Document 1401l the difference between "Wehrmannschaften"and "SA Wehrmannschaften". It is on Page 9, the third paragraph.

THE PRESIDENT : Page 9 of what?

DR. BOEHM : I thought I said 4011, Mr. President. The Deputy General Kommando, IV A.K. speaks of "SA Wehrmannschaften and the same term is used on the same page in the same document in paragraph five. It is the position of the Deputy General Kommando. There it is stated also : "While I was on duty with the "SA Wehrmannschaften on the second of June, 1940--" If the Wehrmannschaften were concerned and they were explicitly designated--

THE PRESIDENT : Dr. Boehm, the translation we have states : "When I was standing at the training of the SA Armies on the second of June, 1940, I observed that the physical training of the SA was carried through under military conditions and was done with great ambition."

DR. BOEHM : Mr. President, I should like to contrast the term "SA Wehrmannschaften" if there were such "Wehrmannschaften" if they did not belong to the SA.

THE PRESIDENT : I do not think it is any good arguing the point. I was only asking what the meaning of the word was. The witness has now explained to me that according to the Hitler decree of January, 1939, certain men called "Wehrmannschafte

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were to be set up in the Reich, as he says, ready for defense. If you can confirm that, it would be useful perhaps.

DR. BOEHM : If the explanation of this term is sufficient, may I continue?

THE PRESIDENT : Certainly.

BY DR. BOEHM :

Q In an affidavit of Rudolf Schoenberger, it is to be shown that the Supreme SA Leadership was in charge of the guarding of forced labor camps. That was the first affidavit given in this connection. I should like to ask you under whom the forced labor camps were operated? Can you clearly state that. Did you ever assign SA men as SA units for the auxiliary or to another authority as employment in such labor camps?

A At no time were police tasks among the duties of the SA. The guarding and supervising of forced laborers is a police task. If SA men were used for this, they were obligated for this duty on a legal basis and were no longer under the authority of the SA. They fulfilled their police tasks, just like anyone else fulfilled his task there. He remained an SA man but for the time of his use for police tasks, he was on leave from the SA and was no longer under the influence of the SA leadership.

Q Not for orders either?

A No.

Q Another document which I should like to show you is Document 3881 PS. This document is signed by a certain Gewecke. The prosecution wants to show the part of the SA in an attack on Jews in Germany. Therefore, I should like to ask you did not the district Kommissar in Schaulen show this was the affair of the Reich Kommissar? This letter was written on the 8th of September, 1941. The heading reads "The District Kommissar in Schaulen."

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Was the District Kommissar in Schaulen over in any way under you?

A I have repeatedly emphasized that the Kommissar in the occupied eastern territory, or in any of the occupied territories, were in no way under the SA Leadership and as a result, did not receive and could not receive any instructions from the SA Leadership. The District Kommissar was not under the influence of the SA.

Q That is cleared up. This letter was written by a certain Govecko. He was an SA man, but it is interesting in this connection to emphasize that from the contents of this document, it shows that a certain Govecko is complaining about attacks on Jews committed by the SS.

The last document submitted under D-970 is with reference to the commander of the Security Police and the SD in the Government General. In view of this Prosecution document I should first like to state that Kattowitz or the outpost Ilkenau was not in the Government General but in Upper Silesia.

Now I should like to ask you if you will pay attention to the following sentence which I will quote.

"Therefore, the construction staff at Kattowitz set up a special detail of 12 SA men in order to obtain workers in the individual villages."

Does this not indicate that the command post was not an SA post but that the official construction staff Kattowitz accidently chose SA members, amongst others. Did you understand me witness?

A Yes. Which question should I answer?

Q Was a construction staff at Kattowitz ever under you?

A No, construction staffs presumably of the organization Todt were never under the SA leadership. If a construction staff used SA men for such assignments it, no doubt, took them from its personnel who in that case were SA members. If they chose SA men who were directly under its orders that was outside the powers of the SA leadership. If such men would have been guilty of illegal actions in this connection they deserve just punishment. In any case, the SA leadership, as the document shows, had no influence on such employment. It was under the construction staff which was not subordinate to the SA leadership.

Q Did it escape your notice that in Kattowitz there actually were SA Einsatzkommandos of which you know nothing? Would that have been possible?

A I said emphatically yesterday and I repeat today that the term "Einsatzkommando" was completely foreign for such purposes. If Einsatzkommandos existed and there were SA members among them that was due not to any instructions of the SA and was not approved by the SA.

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Q Then the Prosecution submitted a letter from the Reichsfuehrer SS and chief of the German Police in Berlin to the inspector of the concentration camps, dated 21 February. I do not have the exhibit number given yesterday but there is no doubt about this letter because I have a photostatic copy of it here.

I should like to ask you, Mr. Juettner, whether the supreme SA leadership had a labor camp for shirkers, as was asserted yesterday and as this document might be interpreted to indicate.

Regarding the camp Frauenberg, it says:

"About twenty men of the SA guarded the camp."

What do you have to say about the labor camp Frauenberg in Styria concerning the labor camp in which twenty SA men are said to have been used as guards? Would you like to see the document? Have you seen the document?

A No.

(Witness handed document)

Q You will find this statement on the second page of the document in the last third.

A I must say, your Lordship, that after the Reichsfuehrer SS took over the concentration camps at the end of 1933 the SA, as an organization, had nothing to do with concentration camps and guarding of concentration camps. If SA men were in fact used as guards, in this case they were drafted by the authorities as auxiliary police or something similar for this assignment. But they were no longer under the authority of the SA.

Q Another document is document 4013-PS, which says:

"This morning I had an inquiry from very important English quarters whether it could be possible that, behind the back of Hitler and Ribbentrop, the Austrians in Germany could invade Austria. My informant added that so far the Austrian charges had been laid aside but this information had come from such a reliable source that they simply had to contact us. I am afraid of a possible provocation by hired elements which, if announced to

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the world just at that time, could produce conflicts."

I should only like to ask you is this one of the customary canards? Do you know the document?

A No, I do not know the document.

(Witness handed document)

I may say that until yesterday I know nothing about this affair. I would have had to learn of it. The so-called Austrian Legion was far from the Austrian border, several hundred kilometers at the Rhine. This alone should indicate that any border incidents or what is inferred here was quite out of the question. In any case, I know nothing about the affair until now.

Q Then the Prosecution submitted another document yesterday, D 951. On the second page of the document it says:

"According to the report of the VI Military District Headquarters, the SA Brigadefuehrers are also said to be considering forming such a staff guard already and to be engaging SA men for one to one and a half year's service for this purpose. Numerically this would amount to six to eight thousand SA men permanently armed with rifles and machine guns in the area of the VI Military District alone."

The letter is dated 6 March, 1934, or March 2, 1934.

The second letter says the training is to be begun 9/3.

Have you seen this document?

A No, but I heard of this yesterday.

(Witness handed document.)

Q Do not these documents refer to the People's Militia which Roehm intended to set up and which failed? Please describe Roehm's People's Militia and its political connection and please be brief.

A First as for the staff guard, there were staff guards, in part armed, to protect the offices and to set up honor guards and other guards which were public. That six thousand men were to be included in the staff guards as here indicated, is quite out of the question. Mr. von Blomberg repeatedly made mistakes. These mistakes are especially clear from an exchange of corres-

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pondence after the death of Roehm, in which he applied to me personally because of an order of May 8, 1934, for which he attacked me personally and in which he presented the state of facts completely falsely. On my objection and that of Chief of Staff Lutze he excused himself with the explanation that in such turbulent times such mistakes could occur.

If your Lordship wishes I can go into more detail.

Chief of Staff Roehm, as he repeatedly said at Fuehrer discussions, in addition to the Reichsfuehrer, wanted to create a militia from the ranks of the SA amounting to 300,000 men. He repeatedly emphasized that the state leadership had to keep the word they had given to the old gentleman, meaning Hindenburg, that is the Reichsfuehrer could not touch the Reichswehr.

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A He spoke quite openly about his militia plan with the military attaches of the western powers. I myself was twice a witness; and had the unequivocal impression that the military occupancy of France particularly --

THE PRESIDENT: I don't believe that we need to prolong this discussion. The witness says, as I understand it, that this document refers to a militia which Roehm wanted to set up. Is that right?

THE WITNESS: Yes.

DR. BOEHM: Yes, those were the plans of Roehm.

Q Then I shouldlike to add the question, with the death of Roehm were not these plans completely shelved?

A These plans were in no way carried out. On the contrary, the comparatively few arms which the staff guards had after the 30th of June, 1934, were turned in.

Q Then I come to the next document, 3050-PS, the first page,

A This document was submitted in cross examination yesterday and contains a collection of articles from the SA Mann, which was commented on adequately in the Commission. It was cleared up sufficiently just what importance SA Mann had to the individual members of the SA and what influence the SA leadership was upon this paper. Since these things were brought up again, however, I must briefly comment on it once more. It is fundamentally false, if one quotes articles, to quote only excerpts.

THE PRESIDENT: You don't seem to have an understanding. You are not here to comment; you are here to ask questions of the witness. If you want to ask questions of the witness, ask them.

DR. BOEHM: Yes, Mr. President, I should like to quote an article which is given here in Document 3050-A. This article must be quoted by me, Mr. President, since I should like to ask a question, because it arises from the submission on thepart of the prosecution by quoting one article from theSA Mann. It does not read as given here.

The article reads: "Since the march is in the last analysis a sport exercise, the same principles are true of it as for any other sport. Pulse and hardening of the body are conditions for successful march training

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For those marching, foot care is especially important." This article then describes the foot care in detail. I will not take up your time with that. Then it points out that marching is not only important for the soldier in the army but also for the political soldiers, the SA men. A completely unmilitary matter in my opinion. In Document 3050-C, also an article from the SA Mann of the 24th of March, 1934. It is the third article under the Document 3050. It is to prove the military attitude of the SA.

THE PRESIDENT: I've already told you that what you are doing is making an argument on the Document 3050-PS; and what you ought to do is to ask the witness a question as to the document.

Q Mr. Juettner, the document which I read to you and on which I corrected the mistakes was to prove the military character of the SA because it speaks of foot care and because this article appeared in the SA Mann. Did you order this article?

A The Supreme SA leadership did not order the article in the SA Mann. The editors were responsible for them. The SA did not have a military character and never attempted to attain it. If, as I said yesterday, the paper "SA Mann" was used in the training of the SA --

THE PRESIDENT: Dr. Boehm, we don't want that argument over and over again. We know perfectly well that you say these documents about training were simply for sports; and the witness has said it at least twenty times in the course of the examination.

DR. BOEHM: Very well, Mr. President. In summary of these documents, that were submitted yesterday, the witness must comment on this matter; and I must ask him about it; and I must let him know the contents of these documents if he is to comment on them. There is no other opportunity.

THE PRESIDENT: He had ample opportunity to get familiar with the documents. The documents were put to him yesterday.

DR. BOEHM: They were not put to him, Mr. President. No questions were asked.

THE PRESIDENT: He stated yesterday that that was a lecture by Lutz.

DR. BOEHM: No, not this document, Mr. President, the whole series of documents.

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THE PRESIDENT: If you'll ask the witness questions instead of arguing, we shall geton better; and if you won't ask questions, you'll have to stop the examination.

DR. BOEHM: Very well, Mr. President.

Q Another article was in Document 3050 of the 24th of March, 1934, with the heading, "We are going into maneuvers. The most effective means in the hands of the clever leaderof youth is to plant a love of nature in their hearts and to steel them physically and mentally."

This article was not written on your behalf any more than the others? Do you conclude a military attitude or military training? Do you conclude that this article means to express a militaristic attitude?

A No.

Q In Document 3050-E it is said on the third page in the SA Mann, "There is no resting, no tiring, neither as political battle nor in the saving of valuable goods of German political economy. The SA is always ready." Do you conclude that from that is a military attitude? I do not know who wrote this article. It was not ordered by you in any case; but can one conclude a military training or a militaristic attitude?

A No one would assume that one can conclude from it a militaristic attitude.

Q Document 3050-F is called militaristic because it contains a plan in which six hours of drills, three hours of shooting, and three hours of maneuvers per month are demanded of the SA members. In the first place, what was done in the drill?

A As the name says, exercises were carried on for the public appearance of the SA in the demonstrations and parades and so forth. That was a matter of course and a necessity. For example, as the Reich Rally men had to move in big parades among twenty thousand people. They had to be prepared for this by drill if that was to give a possible picture. For all these purposes and for the hearing of the men these drills were carried on as is the case in other countries, too.

Q And what was the shooting?

A We had only small calibre rifles, the sport model. We could shoot only with small calibre. Thatwas sport shooting.

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Q What were the maneuvers? What did they consist of?

A An effort was made to train the men mentally to awaken their love of nature. The man was to be forced to think, to train his courage; and his initiative was to be trained. It is similar to motorcycle exercises of the NSKK, in which men wereto be trained to overcome obstacles and for skill in difficult terrain.

Q Then another article is contained in this document, which says the difference between the training of the SA and that of the soldier of the Wehrmacht. It says military maneuvers are only a part of what is understood under SA maneuvers.

Now, I should like to ask you to what extent the maneuvers of the SA hadanything to do with the military ones. Is it true that it goes far beyond military points? Is it true that the SA man considered training not only for technical shooting reasons but that he was trained to look at the terrain as his home?

A These are not leading questions because it is so clear for every SA man that the military view of training has no comparison with that in the SA because we collected with us the ideological training of the man. He learned from his home soil. He was to learn the beauties of his own country, the historical importance of it.

THE PRESIDENT: I'm afraid you don't understand what I say. I thought I had said to you that we quite understood your argument that the training which was given to theSA was not for military purposes but was for other peaceful purposes, your argument being proved by repetition; and the Tribunal does not desire to hear any more of this.

DR. BOEHM: Yes, Mr. President. Then I can skip over the next articles. They are all more or less the same in content. Then a Document 4009 was submitted yesterday. It was to prove that the SA Mann contained official and semi-official articles of the Supreme SA Leadership. This was repeatedly discussed. If these things are submitted ten times, Mr. President, then I must have permission to comment on them ten times. These things were dealt with by the Commission to the smallest detail, and were clearedup by the Commission. Yesterday this document was submitted again; and I am forced to comment on it once more; and unwillingly I do so.

THE PRESIDENT: Ask the witness questions about the document. I suppose there is a difference in your language between making a comment and asking a question. Will you ask the witness a question?

DR. BOEHM: Yes, Mr. President.

Q Witness, a document was submitted here written by the press consultant of the paper, "Der SA Mann" to a Mr. Koerbel, who was at that time Reichsleiter. He was told to write an article. Did that have anything to do with the Supreme SA Leadership?

A I did not quite understand. Koerbel was not a Reichsleiter. The letter was sent to whom?

Q The letter was sent to the Reichsleiter Rosenberg.

A A letter to Rosenberg, yes. He wrote it in his capacity as editor of the SA Mann. If he wanted to have an article for the SA Mann, that was his affair. Also he gives himself the title of press consultant of the Supreme SA Leadership. He has only the task of the rest of the German press. News which he wanted to have published was to be gathered and their publication was to be taken care of.

Q 750,000 subscribers are mentioned in this letter. There is suspicion that one could assume that these 750,000 were members of the SA. Can you comment on that?

A How these 750,000 subscribers were composed I do not know. I know only that the paper, which we considered with very divided feeling, was little read in SA circles, comparatively.

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Q. Did you know that this paper was banned ?

A. It was banned in 1939.

Q. Another document was submitted yesterday, 366-1. That is a report of Mr. Koechling as a special delegate of the OKW with the youth leader of the German Reich in connection with the Sudeten German Free Corps.

I should like to ask you to explain the connection between the SA and the Sudeten German Free Corps here.

A. Your Lordship as I can recall, I have already commented on this before the commission. I was the liaison fuehrer to Conrad Henlein.

Q. Mr. Juettner, perhaps I may shorten this by asking : Is it true that participation or cooperation of the SA in this Sudeten German Free Corps existed only to the extent that these people, in the time in which they were in Germany as refugees, in which they were not organized into a Free Corps, were given economic support by the SA, and in such cases, individuals were given the necessities for human existence.

A. In individual groups of the Free Corps, there were individual SA men who without orders from us to do so, led the Free Corps. In the way which defense counsel has just stated, they helped bring the refugees back and equipped the Free Corps members with the necessities, such as blankets, cooking utensils, and so forth. And then these SA men helped the men of the Free Corps in forming their groups.

The Free Corps itself had no military value. If I may express myself drastically, it was a loosely organized band which had taken as its task receiving the refugees who were, in part, coming back in great misery, putting them into refugee camps,and preventing incidents at the border such as actually occurred, in other words, protecting their fellow citizens. This Free Corps did not have any military value.

Q. Then Document 3993-PS was submitted yesterday. It is a letter of the Chief of Staff Lutze to Reichsleiter Alfred Rosenberg, in which he thanks him for congratulations which he received because the pre-military and post-military training of the SA was assigned to him.

Is it true that this pre-military and post-military training came about ?

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A. I believe I said yesterday, the decree of Hitler of January 1939--

Q. Please be very brief, Mr. Juettner.

A. This assignment was given to the SA --

THE PRESIDENT (Interposing): The Tribunal has asked about it in cross-examination. What is the point of putting it to him again ? He has given his account of it in cross examination.

DR. BOEHM: Mr. President, I asked him to be brief. I only did it for the sake of completeness.

THE PRESIDENT: What is the good of doing it if he has done it already ? It doesn't matter whether you do it briefly or not; he is going to say the same thing.

DR. BOEHM: Document 923 was submitted --

THE PRESIDENT: The Tribunal wants you to understand that the function of reexamination is not to repeat what has been said in cross examination, but simply to explain and to alter, r to explain and clarify--, if you like the word-- what has been said in cross examination.

DR. BOEHM: Yes, Mr. President.

BY DR. BOEHM:

Q. Document 923 was submitted to you yesterday. It concerned the Pflaumer and Schloegel cases. Did you have any part in the measures in this case ? Did you have any influence on any judges or was your point of view, as in all cases of amnesty, that amnesty was a matter of the amnesty decree, an affair of the state, and you wanted to apply it to your SA members in the cases in which this was possible ?

A. In these two cases, as I said yesterday, I had no part. I did not know about them. The SA leadership on principle tried and punished offenders. In cases of amnesty, it urged application to the SA as well.

One thing might be important to mention here, that is the punishment of the concentration camp guards at Hohenstein. The juridical punishment was expressly at the suggestion not of Reichstatthalter Mutschmann, but of SA Obergruppenfuehrer Killinger. The SA leadership asked for the punishment of the Hohenstein men and had the court carry it out.

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DR. BOEHM: Then Document 784 was submitted yesterday, which was said to be a typical case of suppressing political opponents, and I have discovered in my study of the files that old fighters of the NSDAP were mistreated. For example, there was a certain Stahl who joined the Party in 1923, and a certain Seifert, an old fighter from the year 1924. There was the case of Kruege of the German Labor Front, and a member of the NSDAP since 1931 by the name of Ginsk.

In this connection, Mr. President, I should like to ask the members of the Prosecution to give me the letters which are missing here, especially the letter of the Chief of Staff Lutze and the letter of Hess which my colleague Seidl asked for yesterday.

BY DR. BOEHM:

Q. Now, I should like to ask you, Witness --

SIR DAVID MAXWELL FYFE (Interposing): My Lord, I had a search made and we haven't got the documents, the answers from Defendant Hess or from Chief of Staff Lutze.

DR. BOEHM: That letter would have been quite essential, Mr. President to show the attitude of Chief of Staff Lutze in this case.

Now I must go back to Document 1721, Mr. President. It is a report of Brigade 50 to the Group at Mannheim, and the order of the Supreme SA Leadership in connection with the objects which were possibly stolen or otherwise lost in the year 1938.

BY DR. BOEHM:

Q. Witness, the situation was dealt with here yesterday in cross examination as if there were a number of indications of evidence of the authenticity of the report of Brigade 50. Please note the report. At the top, at the right, look at the three letters which are contained in this document, ZDA. The same letters are contained on your order signed "Juettner" at the left at the bottom, next to the stamp. You are not a handwriting expert, but even a layman can see whether these letters were written by the same hand.

Please comment on this.

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A. As far as I can recall, I was asked yesterday whether I saw these. I said yes. If I compare them, I must say that on the one document another handwriting has written these letters than on the other document. That is shown especially by the A and the D. The Z also is different.

Q. It is not difficult for a layman to see that. Now, please look at these signs on the reception stamp and conpare them. This is on the left at the bottom on your order.

Do you see two signs there ? Is it probable that these two signs whi may mean the same thing were wri[illegible]en by the same hand ?

A. On closer observation of the note on the stamp, one must come to the conclusion that on the report of Brigade 50 the stamp is forged. The differences are so obvious. The F, for instance, the H, and the crooked G or whatever it is supposed to be, indicate that it is forged.

THE PRESIDENT: The Tribunal will adjourn now.

(A recess was taken.)

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DR. BOEHM: Mr. President, I have but four more questions which deal with the affidavit which was submitted yesterday, deposed by Minister President Dr. Hoegner, and one final question.

BY DR. BOEHM:

Q. Witness, in the affidavit deposed by Minister President Dr. Hoegner which was read yesterday, it says :"Already in the year 1922 -- I believe it was the so-called German Day at Coburg,-- the Sa, with its armed bands dominated the streets, made attacks on the peaceful population and particularly on people who thought differently politically, and traveled in lorries to all festivities of the National Socialist movement." Now I should like to ask you, how were conditions in Coburg and how did occurrences take place there ? Who attacked whom ? Please be brief.

A. On the first appearance of the SA outside of Munich, at the German Day at Munich, I did not participate in that event, but through a series of colleagues who were participants I was informed exactly. For quite some time prior to that the opposing Press tried to prevent this deployment of SA and they incited against it. Already, when the transports left Munich conflicts occurred and the police searched the SA membership who were leav for weapons, and the same thing happened when the transports arrived at Coburg. In Coburg there was a majority of the political opponents, the S.P.D. and similar organizations. The SA was in the minority by far and there were no extensive conflicts there due to the strictly decent behaviour of the SA, and Coburg may be taken as a classic example of that kind. These attacks were not only carried out by the Coburg political opponents but by people who had come in from the outside who were in an overwhelming majority as against the SA. These people initiated these attacks and carried them through.

Q. Dr. Hoegner says in his affidavit -- he declares further that the behavior of the SA was all the more dangerous for it was trained by the Reichswehr as a sort of auxiliary unit, had its own munition dumps and had admission to the secret ammunition dumps of the Reichswehr. Is that true

A. This statement is quite incomprehensible to me. The Reichswehr at th time, with the agreement of the government, carried on a training program to the effect of protecting the border, especially after the incidents alon the Polish border, in order to protect our home boundaries. These men who were called in for this period of training were taken from those units like "Steel Helmet","Jung Deutscher Caden" and "Reichsbanner". Only one organiza tion was not admitted to this training and that was the SA, particularly at the instigation of the civil authorities, who, according to my memory, were very close to Dr. Hoegner's party at that time. Point 2. The Reichwe had munition and arms dumps for the purpose of protecting the boundaries and these arms and munition dumps were covered with great secrecy, and that was right, for everywhere in Germany riots threatened, — I am thinking of Braunschweig, Hamburg and so forth -- and these riots were starting so that these weapons would not fall into the hands of unauthorized person On the occasion of the Polish [illegible] or uprising where I myself participated in the Free Corps, one of these dumps was used and with the agreement of t Inter-Allied Military Commission, one of the British officers who belonge to the Commission and who was very close to me because of the former war and who supported us in the most chivalrous manner. It is remarkable that Dr. Hoegner would try to transfer these arms dumps to the SA, for he really should know thatColonel GeneralHelm, who was very close to him, had given the permission for the Reichswehr. Point 3. I should like to say that between the SA and the Reichswehr an extraordinary state of tension existed and I know, as it was told me by Helm who was the successor of von Segt and whom I have known from the previous world war, that von Losso, in November of 1923, was that General who was responsible for the futile action in whic the SA participated; and it may also be seen that General von Segt was str gly inclined against the NSDAP. Dr. Hoegner, should have known that as wel for this question --

THE PRESIDENT : That is just argument.

Q. My question was only whether these dumps, if they actually existed secret Reichswehr dumps, whether you had admission to them ?

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A, No. That was completely out of the question. May I continue ?

Q. That is quite sufficient. Dr. Haegner, further asserts in his affidavit that on a night in November, 1923, Luddendorf was the one who really wanted to unleash a national war. What do you know about that ?

A. I beg your pardon, but something like that can only be asserted by a fanatic. General Luddendorf, after the First World War, wanted a --

THE PRESIDENT: It is quite sufficient, if he says no to your question.

DR. BOEHM: Yes, Mr. President.

BY DR. BOEHM:

Q. Do you remember that in the Gewerkschaftshaus, Trade Union House, in Munich weapons were found in 1933 ?

A. Yes.

Q. And now my last question. What was the relationship of the SA to Himmler ?

A. The relationship of Staff Chief Lutze to Himmler was concededly poor and the relationship of the SA to the person of the former Reichsfuehrer SS was also poor. In conclusion may I make a few remarks and give but a very brief explanation, Your Lordship ?

DR. BOEHM: And to which question did you want to make a few remarks ?

THE PRESIDENT: Dr. Boehm, you can make, of course, in your speech, wh. arguments you like, but unless it is in answer to some question from you, I don't think this witness ought to say anything upon his own, unless there is something he wants to clear up in his evidence.

DR. BOEHM: The witness wanted to clarify some questions which I had put to him, Your Honor, as far as I understood him.

THE PRESIDENT: What question do you want to clarify ?

THE WITNESS: The question of whether the SA committed war crimes and crimes against humanity.

DR. BOEHM: Mr. President, may I ask that the witness be permitted to give this explanation ? I should be very grateful.

THE WITNESS: I shall be very brief, your Lordship. At the conclusion of the questions put to me under my oath I should like to assure you once again that we of the SA did not do anything bad. We did not want a war, and we did not prepare for a war. We of the SA, of the leadership and of the organization itself, did only these things which, in other countries, are expected of the men of the nation as their ethical or moral duty, which Mr. Truman or Mr. Stalin or the statesmen of England and France expect of their men, namely, to do everything to protect the home country and to maintain peace. We of the SA did not commit any crimes against humanity, either. Neither the leadership decreed them, nor did they tolerate them, nor could the organization be guilty of any of them. If isolated misdeeds were committed, the evil doers were punished and this is our will, that they shall be brought to a just punishment. We, therefore, do not ask for grace. We do not ask for sympathy under the guise of our local need. We ask only for justice, for nothing else, for our conscience is clean. We acted as patriots of the highest order -- however, patriots. If that is stamped as criminals, then we were criminals.

DR. BOEHM: Mr. President, I have no further questions.

THE PRESIDENT: The witness can retire.

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DR. PANNENBECKER (Counsel for defendant Frick): Mr. President, one document has not come in for Frick. One is still outstanding, a document which was granted to me before the end of the evidence, but which has not come in. May I present it at this time, Mr. President ? It is an answer to a questionaire by Dr. Conrad in Berlin, who deals with the attitude of the Ministry of the Interior to the church question. This document shall have the number Frick Exhibit No. 15. I believe I may refer to this document without reading it.

THE PRESIDENT: Yes. Now, then, counsel for the Defendant Funk wanted to recall the defendant, did he not ? Yes, well, will you do that now ?

DR. STAHMER (Counsel for defendant Goering): Mr. President, on the 14th of August I applied for a bit of evidence which has not been decided upon, and I believe there hasn't been any time. It is not possible for me to see whether this application for evidence will be considered if I cannot refer to it at the present stage. It deals with incidents of the session of the 9th of August in the cross examination of the witnessSievers and the questions which were raised at that time by the British Prosecution.

On this occasion the defendant Goering was brought in connection with medical experiments which were made with concentration camp inmates, and we are concerned with the experiments of making sea water drinkable in order to find a cure for spotted fever, and finally, for experiments with "under cooling". These experiments allegedly were carried out on concentration camp inmates, and it was asserted that all of this took place at the direction of -- or rather, with the approval of, Goering. Now I should like to prove that Goering did not decree these experiments. Therefore they were not carried on under his instructions, and that he did not even have knowledge of these incidents.

I should like to call as witnesses for this matter, first of all, Dr. Schroeder, Colonel General of the air force, who is in English or British internment. I also ask to be granted permission to have the defendant Goering himself as a witness, for it is un certain whether it is possible to bring the witness Schroeder here on time. Therefore I should like to ask the high Tribunal's permission to have Goering recalled to the witness stand so that I can question him in regard to these questions which I have just mentioned.

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THE PRESIDENT: Give the Tribunal a reference to the transcript where the defendant Goering testified upon the question of experiments.

DR. STAHMER: Mr President, I tried to do that. I shall submit that su bsequently. I have not received the transcript. These documents were submitted in the afternoon session of the 9th of August. I have not had the individual numbers, but I believe some time today I will be able to submit them/

THE PRESIDENT: You are misunderstanding me. What I asked you for was a reference to the transcript where the defendant Goering himself was questioned, as I imagine he was questioned, about experiments generally.

DR. STAHMER: Yes, Mr. President. In general he has been examined on this matter, and the witness Milch also testified in general. And I think I can tell the high Tribunal where to find this passage. General Milch was heard on this matter on the 8th of March --

THE PRESIDENT: Yes, Dr. Stahmer ?

DR. STAHMER: General Milch was heard on this matter on the 8th of March 1946, page 5,577 of the German transcript.

But I should like to call the attention of the high Tribunal, Mr, President, that Milch was heard only on a fragment of these questions and gave but a general opinion. But now specific accusations have been raised, which were unknown to me at the time and as to which I could examine neither the defendant Goering nor the witness Milch.

THE PRESIDENT: What I wanted to know in addition to General Milch was, at what pagein the transcript the defendant Goering himself dealt with the matter, either in the examination in chief or in cross examination or re-examination.

DR. STAHMER: At the moment I can't tell you, Mr. President, but I shal check on it and tell you immediately. Yes, I shall do that, Your Honor.

THE PRESIDENT: We will consider the matter. Have the Prosecution any observations they wish to make with reference to the application on behalf of the defendant Goering ?

SIR DAVID MAXWELL FYFE: My Lord, this is the first time that I had heard of the application,so I am speaking from memory.

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My Lord, my recollection is that the Prosecution putin certain correspondence about the experiments. That was put in cross examination by Mr. Justice Jackson to Marshall Milch, so that when the defendant Goering went into the witness box the question of his connection with the experiments was a matter that was known to him and with which he could deal.

My Lord, I would like to do the same as I understand the Tribunal wants, check as to how far he did deal with it, and if there is any further point arising on that, perhaps I could mention it to the Tribunal later on.

THE PRESIDENT: Could you do that when we rise, or just before we rise today ?

SIR DAVID MAXWELL FYFE: Certainly, My Lord. I will have it looked into at once.

THE PRESIDENT: And perhaps Dr. Stahmer could let us have a reference to the pages in the transcript at one o'clock, or even two o'clock. One o'clock would be preferrable.

SIR DAVID MAXWELL FYFE: That would help a lot.

DR. SAUTER(Counsel for defendant Funk): With the permission of the high Tribunal, I should like to call the defendant Funk into the witness box.

WALTER FUNK took the stand and testified as follows :

THE PRESIDENT: Defendant, you understand you are still under oath ?

THE WITNESS: Yes.

THE PRESIDENT: You may sit down.

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DIRECT EXAMINATION

BY DR. SAUTER:

Q Dr. Funk, can you understand me?

A Yes.

Q Dr. Funk, today I must examine you about this affidavit submitted by the prosecution last week, deposed by S. S. Obergruppenfuehrer Pohl, dealing with concentration camps. You yourself have been asked about this pattern of questions already on the 7th of May here in this courtroom. In this examination of the 7th of May, in response to a question, you stated that at that time you had seen this Obergruppenfuehrer Pohl once, and I quote from the transcript of the 7th of May, "I saw him once at the bank, together with Mr. Puhl, the Vice President of the Bank, and some of the other gentlemen of the Directorate were having lunch. I passed through the room and I saw him sitting there." You said you did not talk these matters over with Gruppenfuehrer Pohl of the SS. You said, "It is completely new that these things took place." That is a literal translation of your testimony of the 7th of May. Now, Dr. Funk, Obergruppenfuehrer Pohl, in his affidavit number 4045-PS, which was submitted to the Court on the 5th of May, stated that he had talked to you twice. Do you remember the other conversation you had with him, a conversation which you did not mention at that time? Can you recall that now, Dr. Funk? And what can you tell us in regard to this other conversation regarding the statement of Obergruppenfuehrer Pohl? In this connection, I am referring to that conversation about which Obergruppenfuehrer Pohl stated that he had talked with you on Himmler's instructions, so that you, as Reich Minister of Economy, when textiles were being alloted for uniforms, that you would give preferred treatment to the SS?

A According to my conviction, this conversation did not take place. In any event, with every possible effort, I cannot remember a conversation like that with Pohl, and many things speak against this fact. First of all, I did not concern myself with matters or questions of a specific nature like that, such as the allocation of textiles, textile quotas to a branch of the service, and it was never my habit to deal with matters like that. Point two,

it was my habit to make conversations like that always in thepresence of my State Secretary, or in the presence of the competent Chief of the Department and expert, and particularly if the conversation was involved with a person whom I never before had known. The question of the supplying of textiles from concentration camps, that was a question that I never concernedmyself with at all. These things were only in the sphere of command of the Reich Commissar, for old material and its use. That was an office outside my Ministry. The office quite logically worked together with the textile experts of the Ministry. According to my conviction, matters took their course this way. The material collected in the concentration camps, the scrap material found there, and old textile, this was to go directly to the factories which were to reprocess material of this sort. Therefore, I am of the conviction that the officials of the Ministry of Economy knew nothing about the supplying of this material from concentration camps, for previously these materials were collected by the Economy Branch of the SS under the leadership of Pohl. Up to the day of this trial, I did not even know that Pohl headed the concentration camps and were under his subordination or jurisdiction. The connection between the Economical Department of the SS and the concentration camps was something I knew nothing about. This supplying of old materials relatively and with the entire production, did not play quite the decisiverole, so that I would be bothered with it at all. But let us suppose that Mr. Pohl visited me. My memory is not quite what it used to be and particularly after the many, many years of illness that I have passed through, so that a visit of that kind, which Pohl stated only lasted a fewminutes, might have slipped my memory. If Pohl expressed a wish of Himmler like that to me, then I most certainly would have turned this matter over to my State Secretary so that he would handle it and do the necessary thing. Quite tremendously is the assertion of Pohl that he allegedly said something to me about the dead Jews! Or where these orders or shipments came in the year 1941, perhaps 1942, of which allegedly took place! The fact that Pohl should tell me, who he was seeing for the first time, that he would tell me a secret which was guarded most jealously up to the end, that I say is incredible. But he had no reason to call on me

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and speak of the dead Jews. If he said to me which shipments from the SS will arrive it was something quite plausible to me, for in the large domain of the SS, where hundreds of thousandsof men had been interned, and were being clothed by the State, and that much of the old material and ---

THE PRESIDENT: That is going into arguments rather than giving testimony of facts.

A I am denying most emphatically that Pohl made that statement to me! I am calling it a lie! I am calling it a libel! Up to the day of this trial, no soul told me anything about that, not a soul. That Jews were being murdered in concentration camps, a report like that I would not let rest. Immediately, I would have turned it over to my superior, the Plenipotentiary of the 4 Year Plan, and I would have told him.

Q That is one point, witness. That is one point. I believe it has been cleared up sufficiently with your testimony. Now I will turn to page 2. Already in your testimony, in May, I believe, on the 6th of May, you testified that SS Obergruppenfuehrer Pohl and you met once, that you met him at the Reichsbank at Lunch in the canteen of the Bank. The witness, Pohl, inhis affidavit, 4045-PS, refers to this matter, and he says everything that he originally discussed with the Vice President of the Bank, and you know nothing about. It would be a waste of time to read it. In the transcript of the 5th of August, this is to be found, "After we, that is, Gruppenfuehrer Pohl and Vice President of the Bank, Puhl, and several others, had inspected the various valuables in the bank, in the Reichsbank vaults, we went upstairs to a room and had lunch with the Reichsbank President, Funk. The lunch was served after the inspection. Funk, and Puhl, the Vice President, and several other gentlemen of the staff of Pohl, were there. 10 or 12 people were present."

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And we discussed, among other things, the valuables which I had seen in the vaults, that is, the vaults of the Reichsbank.

THE PRESIDENT: Dr. Sauter, we have all heard this evidence the other da Can't you put the circumstances of it to him and ask him whether it is true? I mean, it is not necessary to read it all?

DR. SAUTER: Mr. President, I am only reading those two sentences which apply to the defendant. There were two sentences and I am omitting everything else anyway, but naturally, I have to read these two sentences to him so he wi know exactly what I am referring to. Everything I said up to now is in this one sentence. And now, the second sentence follows, which is very brief. It reads as follows:

"On this occasion it was mentioned that a part of the valuables which we had inpsected had come from concentration camps." End of quotation, and the end of the second sentence.

BY DR. SAUTER:

Q. Witness, you have hear what Pohl, the Gruppenfuehrer, asserts in his affidavit. Is it correct or isn't it correct? You can answer the question wi a yes or no, and if it is no, then you may give a brief explanation.

A. That he talked with me on this occasion, at this breakfast, that I do recall. That he discussed the valuables deposited by the SS, that I do not recall. That I know with certainty -- that he did not talk with me about those valuables about which I didn't know at all, therefore, about that part o the things which had been brought in by the SS were not to be brought in to be used by the Reichsbank but rather, to be used by the Reichs Finance Ministry, that is gold, jewelry, and what other things there may have been. These thing I never knew about, I never saw these things, and about these things Pohl did not talk about to me because if he had I would have known about them and would have inquired about them. It is quite out of the question that in the presenc of twelve other persons, perhaps three or four of them directors of the Reichs-bank, and in the presence of the servants, that he would have discussed matter like this. That things like that had come from concentration camps and possibl

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might have come from Jews who might have been murdered, or even that the SS had collected foreign exchange and had deposited things like that and that th had come from the concentration camps, that I did know. I discussed these matters with Pohl and that was the first promise that I had of this entirely terrifying matter about which Himmler, at that time, had asked me to have stored in the Reichsbank. I personally asked Himmler if the valuables were t be used for the legal Reichsbank business and whether I could dispose of them and use them but I did not know anything about the other things, I did not s them, and I did not know their origin.

Q. Witness, I should like to put one final question to you so that ever thing will be entirely clear. When did you learn that, for instance, the glasses and their rims, gold teeth, and so forth, in addition to gold coins and foreign exchange, that hateful things like that had come in your Reichs-bank? When did you first learn that?

A. Here, in this proceeding.

Q. You say that under oath? Can you say that with a clear conscience?

A. Yes, I can swear to that. Please, Dr. Sauter .....

THE PRESIDENT: He has already given this evidence.

DR. SAUTER: It was just a very brief question.

THE WITNESS: Of course, what went on in the SS, that I did not know. I never saw that, but other things besides gold could have been, in that connection .....

DR. SAUTER: You have already said that. Thank you very much, Mr. President. I have no further questions.

CROSS EXAMINATION

BY MR. DODD:

Q. You now tell us that you did know about the gold deposits and the jewelry coming in from the concentration camps, is that so?

A. I did not know anything about it.

Q. You did not know anything about it? I must have misunderstood you. I thought you just told the Tribunal that you did know that these gold deposit and other things were turned over to you through Himmler?

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A. No, I did not know anything about that. I said only that what was contained in the deposits made by the SS I did not know and that the SS did have deposits in the Reichsbank I did know, but what was contained in them I did not know. I never saw them and no one ever told me about the nature and the origin and the size of these things.

Q. Well, you recall when you testified here before the Tribunal, on 7 May, that I asked you if you know anything about the gold deposits from the concentration camps, and this testimony is on page 9104 of the record. You said, at that time, that Mr. Puhl told you that the SS had delivered a gold deposit and "he also told me, and he said this in a somewhat ironical manner, 'it would be best if we don't try to ascertain what this deposit is'." This was your own testimony, in this courtroom, in the same chair, and before the same Tribunal, just a month or two ago. Now, you had some knowledge that there was something sinister about these deposits when Director Puhl told you that it would be best if you didn't try to ascertain what this deposit was. What do you say to that this morning? What is the fact of the matter?

A. This testimony was already corrected by me insofar as discussions about these are concerned. For instance, these conversations between Himmler and myself in which Himmler told me that the SS had confiscated considerable assets and valuables, and, among other things, assets such as gold, foreign coins, foreign bank notes, valuable papers, and many other things. Whereupon I asked him -- and I testify to this as well -- to see to it that someone be charged with this matter who could discuss this matter with Vice-President Pohl. Himmler sent Pohl to Puhl after I had told Puhl about my conversation with Himmler. When these deposits arrived, when the first deposits were made, Puhl told me that the SS had made deposits and on that occasion he perhaps made a sarcastic remark, "who knows what is contained in these deposits?", and that is in accord with what I have testified to here.

Q. You also told us, on that same day, and in the next answer to the very next question, you made this statement to the Tribunal, "And I personally assumed, since they are always speaking about a gold deposit, that this gold consisted of gold coins or other foreign currency or possibly small bars of

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gold or something similar which had been brought in from the inmates of the concentration camps." You had some knowledge of the source and the origin of these deposits. You know where they were coming from, and that is all we want to establish here, and you had a pretty good idea, to put it mildly.

A. That didn't have to come from the concentration camps alone.

Q. There is no sense in arguing about it at all. All I am trying to clarify is the fact that you told the Tribunal yourself that you assumed it came from the inmates of the concentration camps. Now, this is your own testimony.

A. Not just the gold. The foreign exchange, the bank notes, and everything which was earmarked for the legal affairs of the Reichsbank, that these things could come from the concentration camps as well, that was clear to me, for the inmates of the concentration camps had to be relieved of these things, just as every other person, and only of these other things I did not know about -- those things which were stored in the Reichsbank I did not know about the agreements between Himmler and .....

Q. Let's see whether you know about it or not. Mr. Elwyn Jones, in the presentation of document 4042-PS here in court, told us about the action "Reinhardt". You heard that document discussed here, didn't you?

A. Yes.

Q. That document is before the Tribunal, and in that document it is shown that over 100,047,000 reichsmarks were deposited either in the Reichsbank or in the Ministry of Economics. That is just from this action alone. Are you telling the Tribunal that this amount of over 100,000,000 Reichsmarks was deposited in your bank or credits to that amount were placed in the deposit of your bank and you did not know about it? You would have to know about that, wouldn't you?

A. Will you please repeat it? The sum, I don't think it came through.

Q. We don't need to get it down to exact figures, it was over 100,000,000.

A. 1,000,000?

Q. No, 100,000,000.

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A. 100,000,000 marks, that is completely out of the question. It is absurd.

Q. But the document here shows it.

A. That's quite absurd. Where were these 100,000,000 marks to come from? That's absurd.

Q. I am glad you are enjoying this, but let's get on with this matter. This document of the SS man further says that over $500,000, that is American dollars, was also deposited. Wouldn't you have to know about that money being deposited in your bank? That's quite a lot of money too, in dollars, and in Germany in 1943 I assume.

A. Yes, of course, certainly. But I don't recall that anything like that was ever reported to me. About 100,000,000 -- that would have been a sum which would be discussed with me I admit, but it was not discussed with me.

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Q. You know, this document goes on and there is listed coins from every country in the world in various amounts. You know that, don't you ? You know that that money was being turned overto the Reichsbank, five hundred thousand dollars, francs of all kinds. Now, you certainly had to know that it was coming into your bank in 1934, and in such an amount. You must know from whence it came. What do you say about that ?

A. That the SS, on the strength of the action which I have mentioned deposited foreign exchange and bank notes and gold coins and whatever else there might have been, these things were charged to the Reichsbank and that I knew. The size of the shipments coming in, that was not reported to me. At any rate, I do not remember it and from where they came I do not know at all. And I am quite surprised that the sum is so high.

Q. Yes, so are we. The important thing is that as the head of that bank, Mr. Witness, don't you agree that it is impossible that you did not know about these sums of money ? You were just something more of an ornament surely ? So far I do not think that you have given any kind of a satisfactory answer. Is your answer that you do not remember or that you absolutel don't know ? Or is it both ?

A. The amount mentioned first of 100,000, 000 marks that I consider absolutely absured. Secondly, the other sum, the second amount of $500,000 that I consider possible. It is quite within the sphere of possibility that amounts like that were taken away from people in the nature of these actions — that is, people who were taken into concentration camps.

Q. Well, it isn't possible that they were taken away when they were being taken to the concentration camps.

A. No, I did not know about that. I know that in normal ways, they were taken away, but the amount as such .....

Q. I am not going to go through these documents, but you have probably read about the thousands of glasses and fountain pens that were taken ? You knew about them, and about the Ministry of Economics taking them, didn't you ?

A. No, I didn't

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Q. You have not heard about the 1,000,000 wagons of textiles that these SS men said had been shipped and were the clothing of the dead Jews and other inmates who had been exterminated ? Didn't you have to know something about this as minister of economics ?

A. No, I did not know about these things and I may explain here before this Court that they applied to the Reichs Commissioner for the use of old material and that came from the various concentration camps to the factories for scrap material. Not a single person told me anything about it.

Q. Well .....

A. I would like to say one more word in connection with the Reichsbank matter. Here I am confronted with the fact that these millions of valuables German pearls and so forth, were deposited in the Reichsbank. Perhaps these things were not deposited with the Reichsbank, because the Reichsbank was only a clearing housem and for that reason no one told me any of the details. But, I assume the responsibility. I carry the responsibility for everything that happened in the Reichsbank, together with the directors. If, however, officials were suspicious about these things which were happening, these things on the basis of criminal acts which had taken place, then it was their duty to tell me quite frankly and tell me quite clearly. And I remember, that in a conversation with Mr. Wilhelm, he said, when we discussed this matter, that a serious responsibility, or incriminations, that it would be a heavy incrimination for the official. At that time when I knew nothing about these matters, how should I ever arrive at the conclusion that they were.....

Q. I do not know howlong you are going on with this, but far as I am concerned, I have everything that I need. Really, Mr. President, I do not think this is being very helpful to the Tribunal. I just want to ask one or two more questions before luncheon. Did you ever have any trouble with Oswald Pohl, the Finance Minister, over the fact that the clothing came from dead Jews? Or did you have any trouble with him in your life, any private difficulty ?

A. As far as I remember, I only talked with Pohl once and perhaps he visited me twice.

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Q. The answer is no, is that right ?

A. No.

Q. Now, you have seen this affidavit which goes into detail of when he saw you, where you were, who were present, how many people were present, even to the number of people in the dining room. Do you know of any reason why he should fabricate testimony like that ? Could you know why he should lie about you in this terrible way ? Could you give us any suggestion, any motiv any cause for him to lie ?

A. In myopinion, there is apurely psychological reason with people who find themselves in such a terrible situation as Pohl, who is himself accused of the murder of millions, it is quite likely that they should lie.

Q. You mean in the same position that you find yourself ?

A. No, I don't consider myself a million-fold murderer.

Q. No, I don't care about that. I merely want to give you an opportunity to state to the Tribunal what your idea was as to why Pohl would lie like this about you. Although there must have been millions of valuables taken from the people who were killed in the concentration camps, and looted , do you, as economic minister, and with the assistance of your Reichsbank, do you want us to believe that you knew nothing about this ? And you can answer it briefly, yes or no.

A. I never asserted the fact that I knew nothing about it. I said that I knew that the SS confiscated certain valuables, and that they were deposited with the Reichsbank such as foreign exchange, gold coins and other foreign assets, bank notes, and that they were used by the Reichsbank.

Q. Wait a minute, please. I don't think you misunderstood my question. I was asking you about the textiles only. You did not know about the textil transaction at all ?

A. No, I did not know about these textiles, that they were coming from con centration camps to be used by the Ministry of Economy.

Q. Now thousands of other articles of a personal nature, from wrist watch to all kinds of jewelry, was flowing through your economic ministry with the assistance of theReichsbank and you want the Tribunal to understand that

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you had no knowledge of all of those transactions ?

A. I did not know anything about those things, nothing at all.

Q. And gold teeth, or gold dentures, were in the vaults of your bank, but you didn't know anything about that strange deposit; you knew nothing about that either ? So you didn't know anything about all these great sums of foriegn currency actually going through your Reichsbank and deposited there, did you ?

A. I know nothing about the mammoth amounts which are being mentioned here I know only that foreign currency was being deposited.

Q. Are you sure you were in the Reichsbank in those days ?

A. Yes, of course.

MR. DODD: That is all I have.

THE PRESIDENT: We will adjourn now.

(A recess was taken until 1400 hours.)

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AFTERNOON SESSION

(The hearing reconvened at 1400 hours, 16 August 1946.)

WALTER FUNK -- Resumed

THE PRESIDENT: Dr. Sauter, have you any questions you want to put ?

DR. SAUTER: No.

BY MR. BIDDLE:

Q. Defendant, I am not quite clear about your conversation with Himmler. Was this first time that a deposit of this sort had been opened by the SS ?

A. Yes.

Q. You have never discussed this with any SS personalities before ?

A. No, with no one.

Q. And of course it wasn't Himmler's business to see that gold and notes were brought into the bank under the German law, was it ?

A. Himmler told me that considerable valuables had been confiscated by the SS and they they included valuable which interested the Reichsbank.

Q. I didn't ask you that. Will you listen now ? Was it any of Himmler's business or duties to see that gold and notes were turned into the bank ? That didn't come under his jurisdiction, did it ?

A. Yes, if these things, for example, had been taken from the inmates of concentration camps.

Q. That is exactly what I meant. So that you knew or suspected, since Himmler was dealing with you, that the gold and the notes had come from concentration camps which were under Himmler. Wasn't that the reason that you supposed that this material had come from camps ? It was obvious, wasn't it ?

A. Not only from concentration camps. Himmler was also in charge of the customs police and the SS was police in the occupied territories. It did not absolutely have to come from concentration camps alone.

Q. No, but you suspected it did come from the concentration camps when Himmler talked to you, didn't you ?

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A Yes.

Q Did you ask him where it came from?

A No, I did not ask him.

Q He said these gold and notes were part of other property; there was other property, too?

A No, he said they were confiscated valuables. The interview was very brief and took place in Lammer's field headquarters, as I recall, when I met him there. It was a very short conversation. He told me, We have confiscated a large amount of valuables, especially in the East, and we would like to deposit them in the Reichbank. May I add something? Then when these things came to the bank, Puhl and, as I recall, Wilhelm were present at one talk. They said that I should ask Himmler whether these things which had been sent in by the SS in their deposit--we were not allowed to touch a deposit -- whether they could be used by the Reichsbank. I did ask him and he said yes.

Q Well, now, let's see. The "East" meant the Government General, didn't it?

A At that time other eastern territories were occupied.

Q But he didn't mean Germany; he meant occupied territories, didn't he?

A He spoke of "the East".

Q You had no idea what he meant when he said "the East", I suppose.

A I thought the occupied territories in the East. That is what I understood. The occupied eastern territories.

Q This was not one of your regular deposits; I think it would be appropriate to say that, was it? It was not one of your regular deposits, was it? It was unusu

A It was a special case

Q You didn't ask him any questions about it at all?

A No, I didn't speak at all with him any more, except what I have told of h I had tried so hard yesterday to reconstruct everything. I can't remember.

Q You weren't curious about this deposit at all? You weren't curious about i It didn't interest you?

A No. Once or twice I talked to Puhl, and once to Wilhelm quite briefly.

MR BIDDLE: Thank you; that is all.

THE PRESIENT: The defendant may return to the dock.

DR. STAHMER: Mr. president, I asked for information, and the questions which

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I am to deal with were dealt with preciously. I have learned that on the session of the 8th of March, 1946, the witness Milch was asked by me about two letters whic Obergruppenfuehrer Wolff sent to him, a letter which wolff sent to him, and the answer. They are of May, 1942. This is on the transcript, in the English transcri on Page 5578.

Then in cross examination this question was brought up again by Justice Jackson on page 5263 of the English transcript. Then General Rudenko, in cross examination with the same witness Milch, discussed another letter of Himmler to Milch of November, 1942. This is on the English transcript on Page 5674.

Up to now I have not been able to find anything more about it in the short time which was available. I do not recall having asked Goering about it, myself. This is quite a limited point. I consider it cleared up sufficiently by the testimony of Milch. Milch was examined before Goering. In my opinion, this deals with other events. The means against spotted typhus was not discussed at all. This is another subject than the one discussed by Milch.

THE PRESIDENT: Do you mean that the defendant Goering didn't discuss the subject of experiments on inmates of concentration camps at all? What you refer to is General Milch.

DR. STAHMER: Yes. As far as I recall the matter now. I was not able to investigate it as to Goering. As far as I recall, I asked only Milch about the subject. Then in the examination of Goering which took place later, I did not come back to it because I assumed that this question had been cleared up through Milch. But I should like to examine the transcript carefully. This noon I was not able to do so.

In this connection I should like to point out one thing. Mr. President. In my written application I made an application in case the witness Professor Schreiber, whose statement was referred to by the Russian Prosecution a few days ago--in case he is called as a witness. If the witness Schreiber is to be produced, I ask to be permitted to examine Goering after the examination of the witness Schreiber so that it will not be necessary to recall him to the witness stand a third time.

THE PRESIDENT: The Tribunal will consider that, too. General Rudenko, can you inform the Tribunal whether Dr. Schreiber is going to be brought here, whether you are going to make use of the affidavit and have him brought here, or not?

GENERAL RUDENKO: We have taken all necessary measures in order to bring

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the witness Schreiber here to this courtroom, but we as yet have no data as to whether the witness will be brought before the case of the organizations is closed. He is in a prisoner of war camp near Moscow. I presume that in the course of today to tomorrow we will be ina position to inform the Tribunal more exactly.

THE PRESIDENT: Now, Sir David, have you been able to find out whether the defendant Goering did give any evidence upon this topic?

SIR DAVID MAXWELL-FYFE: My staff are on that matter at the moment. They haven't quite completed checking the transcript. I hope to be able to inform your Lordship very shortly.

THE PRESIDENT: Very well. The Tribunal will deal with the question of documents on behalf of the organizations, and I think that Dr. Servatius is going to deal with it first.

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DR. SERVATIUS: Dr. Servatius for the Corps of Political Leaders. Mr. President, first I shall present the contents of the document book, then I shall comment on the affidavits. I have already introduced the documents themselves following the taking of evidence; and the exhibit numbers were agreed on with the general secretary.

On page 1 is document 10. It deals with statistics of the Party. It is an excerpt from an issue of "Der Hoheitstraeger". The significance is to indicate how many people were affected by the proceeding. If you will look at page 1 of the year 1935, the number of officers for Block, Zelle, Ortsgrup and Gau is given as approximately 600,000. If you will look at page 2, in th lower half of page 2, is the leadership of the organization for the year '35, in order to give the figures. They are in the Women's organizations about 50,000; in the Student Associations, 1,600; DAF and so forth 800,000; and the Office of Public Welfare and NSV 300,000. I am only giving round figures And the Reichs Food Estate about 100,000. Office of War Victims, 84,000. The offices altogether, 1,475,000. If the 600,000 of before are added, it reaches a figure of over 2,000,000/

THE PRESIDENT: Are these figures, figures of persons who were politic leaders within the definition ?

DR, SERVATIUS: Yes, Mr. President.

THE PRESIDENT: Well, either the Gauleiters or the Kreisleiter --

DR. SERVATIUS: May I explain it briefly ? One must make the distinction between the real political leaders who directed the political machinery from the Gau to the Blockleiter, and aside from them, the large number of people who were employed in the Labor Front, NSV, and such other organization who were also called political leaders. This is clear when the witness Hupfauer was examined here. He said that in his organization which had 20,000,000 members. This organization was directed by political leaders.

Later in my final speech, I will explain how this is organized, but tha are all included in the "Corps of Political Leaders." The prosecution apparently -- the indictment apparently only meant those who actually directed the political offices from the Gau to the Block; but they are all included

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in the word. That is why I have given these figures.

THE PRESIDENT: What have we got to do with any of those ? From the Gau to Block Leiters, the rest of them are rank and file as far as the Tribunal is concerned.

DR. SERVATIUS: Mr. President, they are included in the Corps of Political Leaders. The indictment included them, it did not make an exception of them. It is of significance because from these organizations, in the technical --

THE PRESIDENT: It doesn't say specifically from the Gauleiter to the Blockleiter, is timply says "political leaders".

DR. SERVATIUS: It is later defined, but at first in the introduction the whole Corps of Political Leaders is mentioned. If the Prosecutor would clarify that, the number would be considerably reduced. I only wanted to point out this statistical material.

THE PRESIDENT: Well, where was it that the indictment was confined to the Gauleiters and the Blockleiters.

DR. SERVATIUS: In the Trial Brief. The offices are listed in detail, but it is never said that the others are omitted.

THE PRESIDENT: As I understand what you say, that the indictment charges the political leaders in that corps. There are persons who were political leaders, but who are not included in the Gauleiter down to the Blockleiters. At a later stage in the Trial Briefs, the Prosecution limits their implications for criminal declaration to the Gauleiters down to the Blockleiters as was the original scope of the indictment.

DR. SERVATIUS: Mr. President, I understood that you mean that the staff of the Ortsgruppenleiter and the Block and Zelle assistants were not omitted ? Then the mass still remains.

THE PRESIDENT: The Block and Zelleleiters were not omitted, you see.

DR. SERVATIUS: No, the assistants of the Block and Zelleleiters, their staffs, and the staff of the Ortsgruppenleiters.

THE PRESIDENT: That is what I said, that the original indictment included the whole Corps of Political Leaders, and those were limited to include only those from the Gauleiter down to the Blockleiters,

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DR. SERVATIUS: I believe individual parties were taken out, and it was not said that these are and the others who are still charged. It may be a misunderstanding.

THE PRESIDENT: Colonel Jones, could you tell us ?

LT. COLONEL GRIFFITH JONES: Perhaps I can be of assistance. The indictment included all political leiters. When the case was presented, the Prosecution excluded from that total figure the staff officers and the staff of the Ortsgruppenleiters. Your Lordship will remember that the Corps of Political Leaders, who were the Hoheitstraeger, were the Gauleiter, Kreisleiter Ortsgruppenleiter, Zellenleiter, and Blockleiters. The Gauleiters, Gruppenleiters, and Ortsgruppneleiters also had staffs of men working in their offices who are also political leaders but not Hoheitstraeger; and th Prosecution excluded the staff officers and the Ortsgruppenleiter staff, leaving in all Zellenleiters, from the Gauleiters down to the Blockleiters, and the staff political leiters, or the Gau and staff officers. That is, I think, how it stands at the moment.

THE PRESIDENT: You are agreed about that Dr. Servatius ?

DR. SERVATIUS: Yes, but then a formal statement must be made by the Prosecution. The Prosecution indicted the whole Corps of Political Leaders If it avers the right to omit groups, then let them make a statement on the political leaders in these organizations just mentioned, the NSV, Women's organizations, and Labor Front, if they are omitted from the indictment a formal application must be made.

THE PRESIDENT: Well, now, Colonel Griffith-Jones, Dr. Servatius is submitting that you ought to make a formal declaration on the behalf of th Prosecution. That is so.

LT. COLONEL GRIFFITH-JONES: My Lord, as I understand the position, al these political leaders which Dr. Servatius is referring, the Women's organizations and so on, they are all under the staff, they do work for the political leaders on the staff of the various Hoheitstraeger. I think it may be there is a possible exception in respect to the DAF and the German Labor Front. It had been suggested by the witnesses for the defense that

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there were other political leaders in the DAF who were directly on the staf of one of the Ortsgruppenleiter, but if that is so, they of course are inclu in the indictment.

THE PRESIDENT: This document doesn't appear to show whether or not these are staff officers.

LT. COLONEL GRIFFITH-JONES: It doesn't, but, in fact, that is the position that that was what made up the staff of the various Hoheitstraeger. The representatives of these various other organizations, the staff of each Hoheitstraeger, the Gauleiter, or Gruppenleiter, has very much the same form It had its staff officers, its training officer, and so on; and it also had the representatives of these other organizqtions, such as, German Labor Fron the Welfare, the women's Associations, the Student Associations, Teachers, and so on. It was the staff officers who made up the total staff.

I might say that also this figure of 2,000,000 that has been given, of course, that includes all the staff officers and the Ortsgruppen staffs, the ones which the Prosecution excluded and it is the staff officers and t Ortsgruppen staff which makes up the majority of that total. I can give the Tribunal the exact figures, or as near as we have been able to estimate them. I am afraid I haven't them with me in court at the moment. I think you will see then there were about 600 Ortsgruppens and on each Ortsgruppen about 15 staff officers so that the total is very considerable.

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THE PRESIDENT: Those numbers would have to be deducted from the numbers that are here?

COL. FRIFFITH JONES: Those numbers would have to be deducted. The Prosecution has not included the number that Dr. Servatius has given the Tribunal now. From that you have to deduct the complete staff of all the Ortsgruppenleiters, which forms a very large part of thetotal given you. Speaking from memory, the total, if you exclude that, was in the region of 600,000.

THE PRESIDENT: Perhaps you could give us the figures in writing, or perhaps you can state them now, because if there are 2,000,000 here, how many staff officers of the Ortsgruppenleiters are there, according to you?

COL. GRIFFITH JONES: My Lord, I will be able to tell the Tribunal within a quarter of an hour, if I might just send for the figures. I am afraid that I can not carry them in memory. I will get them, and I will let the Tribunal know.

THE PRESIDENT: Very well.

DR. SERVATIUS: May I comment on that question? It is true that the staffs of the Ortsgruppenleiters were omitted. According to my calculations, they amount to about 1,000,000, but the number is increased by the fact that one and a half times, on an average, in the course of these years a turnover took place, so that one gets one and a half times the figures, and it is still a number amounting to millions. These Ortsgruppenleiters and these offices are not given according to the number of persons but as offices, so that the deputies and successors are not included. Only a state official can discuss this question in detail, but I do not believe that it is important to figure it out in detail but to get a general impression that there are actually millions involved.

Then I go on to page four. This is also an excerpt from "Der Hoheitstraeger". Unfortunately, it can not be seen from the document that this is another issue, from the year 1937, Second Series. Here one can see the percentages of Blockleiters, Reichsleiters, and Gauleiters. The majority -- over 50 per cent are Block Leiters and Zellenleiters. These are included in the Indictment.

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Their assistants were not included. The core of the political leaders are the Kreis and Gauleiters, who amount to 1.3 per cent.

The figures under (5) and (6) are also significant. The departmental offices were 27.8 and the internal Party offices, administration, 16.3 percen

These departmental offices are significant because they include the political leaders of the professional league -- the DAF, the NSD -- but they are by no means all political leaders of these formations who were at the sam time on the staffs of the Gau, Kreis and Ortsgruppen. Only a very few of the in each Gau, perhaps one or two, in the Kreis a few; perhaps with the Ort-gruppen, so that it remains a fairly small number. The majority of these experts are in their own formations, of course.

Then I go on to page 5. That is document number 12. It is significant in regard to the term "Corps of Political Leaders". Whether such a corps existed or can now be formed is doubtful. Here it says that a political organization is forbidden and expressly prohibited. It is an order of Hess, issued in the year 1935, with the legal explanation that there can not be such a special organization.

Then I come to document number 13. This is significant for the followin reason: One does not become a political leader by being given a position, but by special appointment. That is stated here. Since this appointment as Hoheitstraeger must be made by a special act, whoever is not appointed is not a Hoheitstraeger and does not belong to the Corps of Political Leaders.

It is shown that quite a number are not appointed, especially during the war -- all those who held lower offices in an honorary capacity.

Document 14 concerns the same question.

Docuemtn 15 also emphasizes a similar way that appointment is for public service and that it is not a private appointment to an office.

In Document 16 on page 9, one finds the order that the Leiters in the DAF are also political leaders of the Party. Thus, according to the concept of the Indictment, they belong to the Corps of Political Leaders, if they are not excluded.

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The next document, Number 17, shows the higher Fuehrer Corps, Hoheitstraeger to Kreisleiter, and shows that the Ortsgruppenleiter and below are treated differently in regard to appointment. Hitler himself appointed the Gauleiters, the adjutants, the Gauamtsleiters, and Kreisleiters. That is significant in the judgment of these persons.

The next document, Number 18 on page 11, shows the exaggeration of the concept of "political leader". It mentions the awarding of this title to motor vehicle drivers, telephone operators, caretakers of buildings, orderlies. It is said that they should be made political leaders in the organization, but not in the political department between Gau and Ortsgruppenleiters.

Document 19, on page 12 says that the appointments as Political Leader are suspended until further notice. It is from the year 1944. The consequence would be that those who received an office after August 1944 were not made Political Leaders. In part, this was so before this time.

The word "Hoheitsgraeger" is of great importance. The Prosecution has placed great weight on it, and the small functionaries -- the Zellenleiters and the Blockleiters -- were not omitted from the trial because they are Hoheitstraeger.

In document Number 20 on page 13, Hess orders on 14 April 1934 that Hoheitstraeger are only Gauleiters, Kreisleiters and Orts gruppenleiters. It is not expressly said, but it can be concluded from the text.

The next document, Number 2 on page 14, is important because it also closes the circle of Hoheitstraeger with the Ortsgruppenleiters, omitting the small functionaries in the employment of this term.

The next document is number 21 on page 15. It also limits the term to Gauleiters, Kreisleiters, and Ortsgruppenleiters.

In document Number 1 on page 16, the Hoheitsgebiete -- areas of authority are clearly determined. It is the book "The Administration of the National Socialist German Labor Party", 1940, published by a Dr. Lingg. It says:

"For the execution of its task the Party is divided into four areas of authority: Reich, Gau, Kreis, and Ortsgruppe. At the top of each of these

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areas of authority is placed the Party dignitary: the Fuehrer, the Gauleiter, the Kreisleiter, the Ortsgruppenleiter."

Document 4, on page 17, from the year 1940, is an official order to the same effect which defines the term "Hoheitstraeger."

Document 4, page 18, is also to the same effect. It is an order of Hitler about the circle of persons who can enter areas of damage after air raids. The competent Hoheitstraeger, Gauleiters, Kreisleiters and Ortsgruppenleiters are permitted to enter. Where something happens in the area of the Blockleiter of Zellenleiter, he is not admitted, because he is not a Hoheitstraeger.

I refer to document 23 on page 19, which is to the same effect.

Document 24 on page 20 again confirms my presentation.

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Document No. 25, on Page 21 isan excerpt from "Der Hoheitstraeger." It deals with confidential information and tells how far this information may be passed.

Defendant's Document 9 on Page 23, is a decree of the Reich Finance Minister concerning the granting of marriage loans. The document is of importance because it states "In the cases of applications for the granting of marriage loans, the collecting of information about political reliability is necessary only in cases where justifiable doubts exist concerning the political reliability of the applicant. The Blockleiter and Zellenleiter must prove his political reliability. He cannot be a Hoheitstraeger in the true sense of the word.

Now I come to another subject, Document 26, Page 26. The question is to what extent SA and SS are subordinate to political leaders. It says there is no such relation either for the SA, SS, Hitler Youth or NSKK.

Document 27 is to the same effect. It confirms that the leaders of the SA Gruppen or Brigaden were not under the orders of the Gauleiter.

The next Document, 28, deals with recruitment groups and a question of how prppaganda should be spread.

The next document is No. 29. This refers to the connection between the party and the state, interference of the party in state rights. It is an instruction which says "Keep away from measures which to enforce is the state's responsibility. In calling upon state organs, it is to be carefully considered whether an interference is justified."

Document 30 is on page 31. It is a decree of Hess as to the attitude of a National-Socialist, he should endeavor to bring about confidence and willingness to co-operate.

The next document, 31, again warns about attempts to misuse an official position or membership in a party office for personal ends.

Document 32 deals with the right to prosecute or not to prosecute punishable acts committed by party members which resides with the State's Attorney and/or the Reich Minister of Justice.

The next document is No.33 It is an order of Hess from the year 1935. It refers to political evaluation from the Kreisleiter up. I should like to call special attention to this because I consider it a significant indication

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of the higher party leader. It is a characteristic which must lead to another judgment.

Document 34 was issued by Hess in October, 1936. "Never, even when taking care of the least important Volksgenossen and their families, should Zellen-leiters and Blockleiters become obnoxious, and their duty should never degenerate into prying and spying on them, which would arouse not confidence, but distrust."

The next document, No.35, is an order of 1937. It says that investigations and inquiries are in no way the task of the Party. These are up to the state agencies which were created to discover and eliminate these dangers.

In Document 36 on Page 37 it states that agencies of the Party are forbidden to instigate investigations and proceedings in matters which are the concern of the Gestapo.

The next Document, 37, shows that the political leader had no other tasks. The German Civil Service law is quoted here. "Paragraph 3. (2) A civil servant has to act in the interest of the National Socialist State at any time and unreservedly. All circumstances which may endanger the interests of the Reich or of the NSDAP, even if not discovered in the course of official duties, should be brought to the attention of his superior in office."

Document 38 is on page 39. It is a separation between the two departments. The following documents deal with the conspiracy against peace. Document 39 is on page 41. It is an excerpt from the commentary on the party program by Gottfried Feder. It is an influential commentary from the year 1934. It says "We declare, that however, we do not contemplate to force by violence the reunion with Germans, living outside of Germany under Danish, Polish, Czech, Italian or French authority." I will skip a sentence. "That demand lacks the presence of any imperialistic tendency. It is the plain and natural demand made and recognized by every virile nation as a matter of course."

Document 40 is on page 42. It is an excerpt from "Journal of Instructions of the Reichsleadership of the NSDAP, 1933-1935. "In some sectors of foreign countries, the anti-German propaganda has recently used a new, untrue assertion, that the NSDAP is contemplating to annex in the long-run, parts of Switzerland, Holland, Belgium, Denmark etc.

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"Though that supposition is utterly ludicrous, nevertheless it is believed here and there. The Reichsleadership, therefore, desires to state that no serious person in Germany thinks of even touching the independence of other states."

"Document 41 is on page 43. Again, this is an order of Hess. It is one year later, October, 1934. It says "Above all, expressions must be avoided, by which either nations and states might feel insulted or despise through the German nation and its Fuehrer's desire to live in peace and mutual respect with them."

In August, 1935, another year later, another order was issued by Hess to the Party. That is Document 42. It refers to the biggest speeches of Hitler who wishes for a peaceful settlement of all unsettled questions. Foreign statements are considered malicious inventions.

The next document, 43, is again by Hess in January, 1937. It refers to the armament. The purpose was to protect Germany against arbitrary measures from abroad.

I will come to another subject, which is the question of secrecy, which works against conspiracy. The well-known secrecy order which was issued for the Wehrmacht and for the Party was that no office and no officer must have more knowledge of a matter which is to be kept secret than is absolutely necessary for the execution of their task.

In document 45 this order is extended to every agency, every official and every worker..

Document 46 deals with the question of the press. It regards secrecy to the extent that it says articles must be discussed with the Reich Press Agency.

Document 47 is on Page 49. Here it is ordered that discussion on the military situation are prohibited and a case is quoted where a Blockleiter spread his information.

Document 48 is on page 50. This document deals with the law concerning the interrogation of members of the NSDAP and its formations. Secrecy again is emphasized.

Document 49 is on page 53. This confidential information of the party. It includes preparatory measures for the final solution of the Jewish

question in Europe, rumors concerning conditions of the Jews in the East. The following is said here, "In order to be able to oppose the formation of any kind of rumors in this connection, which often have a distinctly marked tendency, the following statements on the present state of affairs are made:"

On the next page a statement is made of what is intended. First, to force the Jews out of the individual fields of life of the German people. Second, the effort to expel the enemy completely from the Reich territory.

The next document is No.50. It deals with the idea of conspiracy. Here the well known Fuehrer principle is shown.

LT. COL. GRIFFITH JONES: I am sorry to interrupt, but before Dr. Servatius leaves that document, I wish to say something. The Prosecution attached considerable importance to document in the book. It is on page 54. Part way down in paragraph two, it says the elimination of the Jews is no longer possible by emigration. I particularly draw the attention of the Tribunal to the last sentence on the following page which is in "It is in the nature of the matter that these partly very difficult problems will in the interest of the final protection of our people only be solved with ruthless severity."

My Lord, on the first page of that document, it will be seen under the "Remarks" column "Open only for G. and K." Dr. Servatius will correct me if I am wrong. I presume that means for Gau and Kreis.

DR. SERVATIUS: I assume that the note "Open only for G. and K." means what the Prosecutor has said, Gau and Kreis, but now I should like to read the whole document since only then can the complete sense be shown. If it is said that there is no longer any possibility for emigration, the document shows that a settlement area in the East is to be created.

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In this we will proceed with ruthless severity.

That was the customary expression found in party writings, that this measure of removal should be carried out with ruthless severity.

I believe that it was really ruthless to remove these people without meaning that they are to be exterminated.

I do not believe that I need the whole document now but believe that that is the correct interpretation of the meaning.

Document 50 on page 56 shows that in foreign policy, in particular, the Fuehrer was entirely in charge; that measures which seemed peculiar to every German, the giving up of southern Tyrol were permitted as no objection was permissable.

Document 51 on page 57 is to the same effect. It is a cirdular issued by the Party Chancellory of November 1942. It states that there can be "only one binding party opinion" and refers to the earlier decree.

Document 52 on page 58 is to be understood in the same sense. It states that the Hoheitsraeger are to act in accordance with the directives received from the Fuehrer.

Document 53 on page 60 deals with the position of Bormann. It is stated here and I quote:

"For years the Fuehrer has customarily empowered the Reichsleiter Martin Bormann with current special commissions of the most different kinds which do not fall into the regular field of Reichsleiter Martin Bormann's activities in his capacity of Chief of the Party Chancellory but which concern affairs outside of the Party's framework in regard to which instructions and opinions of the Fuehrer have to be transmitted in the Fuehrer's name to various leading personalities of the state and governmental agencies."

This is of significance because Bormann decided very essential things in his capacity as secretary of the Fuehrer, for example the subject of euthansia.

Document 54 on page 62 gives general points of view on political leadership as to differences of opinion among the leading Party members, as to the formation of cliques, if such, and how they are to be prevented.

The next document 55, on page 64 deals with the foreign organization and explains the next document. This explains document 56, wherein the Hoheitstraegers

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are classified but in a somewhat different way since they do not have any territory of their own and they are only given the rank of deputy Gauleiter. It is the same with the Kreisleiter. Ortsgruppen and Stuetzpunkleiter.

Document 57 on page 68 emphasizes in this connection the principle of national socialism is no export commodity. It says that it cannot be a task that it be transmitted to foreign nations indiscriminately.

Document on page 69 is a circular on traffic with foreign political groups from the year 1942. It says the following:

"Any communications of members of offices of the movement here or abroad with political or allegedly non-political groups of other states is determined exclusively by the relation of those groups to their own governments with whom the German Reich entertains friendlt relations. Any communication with such groups has to be discontinued without any exception if they do not support their official government or even cause it difficulties. This is also valid when these groups call themselves National Socialist or Fascist."

Document 59 on page 70 is from the Reichsver fuegungsblatt, It is a decree of 4 November, 1942 by Hitler. It says the following; that the bringing together of peoples demands factual consideration of their natural qualities.

"The NSDAP and its organization, therefore, have not to fulfill any European or world-wide missionary task."

That concludes document book number one.

THE PRESIDENT: Perhaps that would be a good time to break off.

(A recess was taken.)

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THE PRESIDENT : Dr. Servatius, the Tribunal appreciates the way in which you are dealing with these documents; but, at the same time, aren't you going over some ground which you will have to cover in your final speech?

DR. SERVATIUS : Yes, Mr. President; but in my final summation I shall not touch upon these questions, for first of all they have to be submitted and it has seemed to be very useful.

THE PRESIDENT : So far as the formal submission or offering of evidence is concerned, that can be done more shortly If you are going to deal with the substance of the documents in your final speech, it isn't necessary to take up time and give us the substance of the documents when you offer them in evidence. If you are going to deal adequately with it subsequently for your own purposes in your final speech, it means that you will do it twice over.

DR. SERVATIUS : Yes, Mr. President, The same questio will reappear once more with the affidavit that I am going to present when I complete them as the discussion of these matters, for in my final summation I am to be very brief and refer only to them with a certain few words.

THE PRESIDENT : I expect you to offer the documents now in evidence without dealing with the substance of them and then to deal with the substance in your final speech.

DR. SERVATIUS : Mr. President, in my final summation speech, it has been completed already; and these matters are very brief. Considering the fact that I would perhaps be able to submit the material now in the beginning, I held a different view at that time when it was established that the documents were to be introduced; and to refer to them in the final summation, in that case my final summation would have been built up in a different way from the way in which I developed it now.

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THE PRESIDENT : You will try to help the Tribunal, am sure, by being as short as you can.

DR. SERVATIUS : Yes indeed. Document Book Number 2, begins with Document Number 68 and concerns itself first of all with the question of coercion to assume an office. First of all, there is a complete directive, with which every member of the party is compelled to collaborate.

The next document deals with the same problem, the same question, and Document No. 62 has again confirmed the fact that in the profession activity you are obligated to work for the Party and in the main members of the Party who without giving sufficient reason, refuse to take Party office in that way are acting contrar to the interests of the Party and are to be punished by prosecution in court.

The next document shows that in the lae dealing with the consolidation of State and Party, this refusal will be punished by the state. In paragraph 5 it says in addition to the regular punishment arrest may be made and applied. Here physical coercion in the form of arrest begins.

The next document makes the regulation or the stipulation of the party to be public law. This is Document No. 63. On Page 77 the practical conclusion is drawn, that whoever acts contrary to the best of these endeavors can be expelled from the Party for lack of interest

Page 78 shows a verdict where it actually has taken place where someone did not wish to take over an office. In Page 82, dismissal has been mentioned. There was an appeal in this matter. Document 64 contains a judgment of the highest party court where someone was expelled from the party for he deliberately carried his office through poorly in order that he would be dismissed from his post.

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Of special significance is Document 65. There it is expulsion from the Party as the highest punishment; and it says, "The Reichsleiter Buch has repeatedly emphasized that among certain circumstances this means the loss of all means of existence and of prestige"; and especially everyone knows that a certain, definite punishment of a certain duration will come to an end; but that also means that he will be an outcast, together with his work, together with his family, and that he can no longer work.

In Document No. 66 conclusions are drawn for officials who were expelled. Their appointments can be nullified. Then there are several documents dealing with the coercion exerted on officials and employees. This document is 67, which is given by the Bavarian State Government, saying what will happen in case a person refuses an office.

Document No. 68 is a copy of a directive given out by the Ministry of the Interior; and this follows the same line as approval, where he was active and what he did for the Party and how he was active politically.

Then Document 69 deals with teachers, given out by the State Ministry for Education and Culture, dealing with upper Franconia and middle Franconia, teachers here to be mentioned by name whose conduct is unpleasant.

Document 70 deals with the promotion and it presupposes a collaboration and work in the party. Document No. 71 deals with officials; and it says that they can no longer remain an official after they have left the Party. The least that the official can count on is that his promotion will not be carried through, and it states that he be notified about the decision of the exclusion from the party.

Then Document No. 72 deals withprofessional coordination. Here it is emphasized that the chief offices are subordinate to the functionary of the party. Document 73 segregates certain officials

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who deal with the party treasury. Document 74 again shows the segregated development of the finance system from the regular political system.

In the Document 75 we see the segregation between finance and political finance administration, and the dismissal of finance experts from the staff of the Gau leadership. In Document 75 it sets down that the treasurers of the party are bound to follow the instructions of the Gau treasurer and are only responsible to him.

Document No. 76 deals with offenses involving Party property. Document No. 77 shows the organization of the various offices in the staff. Here the political leadership, administration and party courts are separated according to this document. Document No. 78 again deals with the separation of the Gau treasury leaders. Document No. 79 again deals with the topic of t organization within the staff in the various spheres of responsibility.

Document 80 prohibits the interference with party court proceedings. Document 81 is of significance in so far as the part courts are put outside the party organization and are independent due to the fact that the party judges are not political leaders. Document 82 deals with the position of the party court and judge. It says here that he is only subordinate to the Fuehrer and his j therefore not a political leader.

The next few documents deal with the church problem. First of all, we find the commentary given by Feder with reference to the party's program. There as far as cultural policies are concerned, it is stated that attacks on Christianity are to be avoid because they are to be considered blunt and tactless; and at the end it is emphasized that the party is holding its stand on the basis of Christianity.

Document 84 now seems to be of significance for in de-

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tail as a party commentary it emphasizes how the attitude is to be taken towards church matters, practically under points 27 and 29, "full religious liberty and freedom of conscience, special protection of the Christian confession, the elimination of theological documents which would be contrary to the German moral: and so forth.

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In document 85 the Party turns against the so-called "Votan Kult" and turns it down.

Document 86 prohibits interference by the State into the differences of opinion of the church, and it specifically says that any political or police interference is to be dispensed with. This is a document dating back to the year 1933.

Document 87 was issued in conjunction with deliberations of Reich Bishop Mueller. This is a directive of Hess dating back to the year 1933, according to which freedom of conscience is advocated.

In the year 1935 a directive was issued by Hess which was also opposed to interference in Church matters. It states that they are to stay out of these church problems and that no isolated actions are to be taken against churches.

Document 89 is a circular letter taken from the Party regulations from the year 1937. It states that all denominations are to be treated alike, and it decrees that the Party will remain aloof from all denominational groups. It rejects certain creeds, Deutsche Glaubensbewegung, and Deutsche Gotterkenntnis (Haus Luddendorf).

Document 90 deals with National Socialist celebrations, and it is against the attempt to bring about a substitute for religious services by means of certain celebrations of their own.

The next document 91, deals with practical results, where someone who assumes a church office cannot be called to account for his actions, but rather, he has to be left alone and unmolested.

Document 92 deals with the Reich Labor Service, and it states that the individual may not be stopped in any way, but that onlyin a body can church questions be dealt with. Then we come to the treatment of theology students, and that any polemic on church problems is to be avoided in line with the Labor Service.

Document 93 deals with the book "The Myth". There was no special stigma attached to it.

Document 94 deals with the lynching problem. Here the Japanese measures are referred to where fliers were sentenced to death -- that is, fliers who had carried out bombings there. The fact is rejected that a

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similar trend of thought would apply in Germany. This is the year 1942.

Document 95 deals with the treatment of prisoners of war. It states that they were to receive sufficient food and that their treatment would have to be severe but not brutal, that it would have to be just and decent.

Document 96 deals with the utilization of Eastern workers in Germany. This is a circular, which was given out by the Reich Party Leadership to those various offices. It says that they were to be fed properly, would have to be treated properly, and that they could not be confused with prisoners of war.

Document 97 deals with the religious needs of the Eastern workers, and it deals with the problem of whether their own clergymen could be used.

Document 98 deals with the question of the interruption of pregnancies of female Eastern workers. This is confidential information given out by the Party Chancellery, and it states that only with the approval of the worker employed may an interruption of pregnancy like that be carried out; that is, only at the express wish of the pregnant woman may the pregnancy be interrupted.

Document 99 deals with custody. There must be conformity with the general interest, and it is to be considered only in the severest cases. This is a circular addressed to the Kreisleiters.

Document 100 deals with caring for political prisoners and for their families, and the prisoners themselves, after their release. The curious fact is shown here that the families of the political prisoners who are in the concentration camps are taken care of as far as their economic needs are concerned, as well as their political needs. Then, after their return, the economic care of the inmates released from concentration camps is a matter that has to be taken care of.

Document 101, on the Jewish question, rejects the rumors and states that terror actions against Jews are to be avoided as provocations for matters like this being used abroad and having to be called lies.

The next document is of significance in so far as the prosecution has stressed those matters in connection with trade unions.

Now, document Book 2 has been discussed in detail and certain other applications have been granted me.

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Document 59-A has been admitted. It states that Himmler had only the Party rank of a Reichsleiter, but that he was not actually a Reichsleiter, and this may be of legal significance.

Then, we have another document which has been admitted from the roster of the Gestapo at Dusseldorf, dealing with the mistreatment of foreign workers. In that document all abuses are prohibited, and a special court is mentioned according to which the guarding personnel were punished if they deprived people of liberty and mistreated them.

Thus, Mr. President, I have submitted all the documents. I shall now turn to the affidavits which have been granted me.

THE PRESIDENT: You are going to deal with your affidavits now?

DR. SERVATIUS: Yes, sir.

There is a list in the hands of the Tribunal, in which are listed these 64 affidavits which are granted to me. I should like to proceed now with that list.

Affidavit number 1 has been translated, andI shall have it submitted to the High Tribunal. Up until now we have only had this document in the English language.

This is an affidavit deposed by a Landgerichts Direktor in Regensburg, who had been a Block Leader. He deposes on the subject of how he had to take over this office and what was to be done there. He gives particulars, and he mentions the significance of the organization book, which plays a part in so far as many conclusions are drawn about the size of the organization and about the activity of the various members. This book was only a draft, and was to be a working basis rather than a final Party solution.

Document number 2 has not been translated. It may be found in the transcript of 16 July 1946 before the first Commission hearings, page 3227 of the German text. This is the testimony of a Kriminalobersekretaer of Munich, who mentions how he was taken over and then turned down as unreliable, but later on used nevertheless. The gist of the matter is to show that these were not important political offices which could only have been carried out by a political dignitary, Hoheitstraeger. That answers various questions.

Price

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Affidavit No 3 was taken in the same session of the Commission, page 3229. This is a personal employee who was a Block Leader for eight years.

Then we turn to Affidavit No. 4 to be found on the same page. This is deposed by a man who was active in a small city for ten years as a Block Leader and who was a former member of the Trade Unions. He deposes on NSDAP activity. He also deals with the card index system which was kept of the inhabitants and he deals with the orders and instructions that he received.

Affidavit No. 5 emmanates from a man who is 72 years old, who for many years was a Block Leader and then later a Cell Leader. He deals with the question of spying and says that it was unwise and that it created ill-will and mistrust. He also mentions the reason for his joining the Party and he describes the type of people from whom the Block and Cell Leaders were made, restaurant keepers, inn keepers, tailors and so forth.

Now I shall turn to Affidavit No. 6, which has been translated. This is the testimony given by an official from Stuttgart. He deals with conditions before the war and defines the views held by a Block Leader and his attitude in that connection.

Affidavit No 7 has not been translated. It may be found in the transcript of the Commission, page 3233. This witness was a war Block Leader and a graduate engineer. He defines his attitude on the card index system and, in a picturesque way, describes how a Block Leader in that region acted. He mentions everything from the collection of Party dues to the removal of snow and covers the entire sphere of activities with which he had to be familiar.

No. 10 is the testimony of a Zellenleiter, who deals with the relationship with the Church in the district of Cologne, and says that at the erection of this Cell they were all members of the Evangelical Church; that his father was a member of the Church and that in the neighborhood theologians appeared as speakers; however, that everything changed with the year 1935 with the origin of the German Christian movement.

Document 11 has been translated. It comes from a Kreisamtleiter -- that is some professional man, professional official with the district of Cologne. It deals with the card index system.

Price

I omitted Document No. 9 -- I skipped it before. It comes from Pragu and Oldenburg and deals with matters generally.

Now I should like to refer to Affidavit No. 16 and must make a correc I repeatedly refer to these documents as "documents", which may bring about arrant confusion. Documents are in the document book whereas the affidavit have been numbered separately and specially.

Affidavit No. 12 was made by a toolmaker who was organized in a toolm kers' union and who knows 200 Block Leaders. Above all, it deals with the question of the nomination and confirmation of a political leader, that this hardly took place.

Then Affidavit No. 18 was deposed by a Cell Leader in Bremen who was a higher inspector. He deals with the question of coercion as to the taking over of office. He says that the had to fill out questionnaires which were incorporated into his personal files and records.

Affidavit No. 19 was deposed by a Block and Cell Leader at Hamburg and he deals with the question of whether functionary is a Hoheitstraeger or and in detail concerns itself with those facts which led to make up the judg ment.

Affidavit No. 20 comes from Berlin and it shows the activities there in the metropolis; the collection of winter health contributions, other contributions, the distribution of pamphlets, and so forth. It also deals with the question of information about certain individuals and the carrying through if negative reports were given in which had been asked for in offici channels, that an extensive investigation from above would have taken place in order to check the authenticy or reliability of the accusation.

Affidavit No. 12 comes from Berlin, Hessenwinkel, which is in the Sov Zone. This is a publisher who gives a clear picture about conditions that obtained in his sector.

Affidavit No. 17 comes from Dresden and ennumerates the activities of Block Leaders, just purely non-essential things. He deals with the meeting of the members of the various staffs in the party and ascertained that the Block and Cell Leaders were less influential than the members of the Ortsgru

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Finally we have Affidavit No. 21 which comes from Eisenach and which d with the question of the treatment to the population : Spying is prohibited treat them decently.

Affidavit No. 13 comes from the Gau organization leader of the Gau of Munich, Upper Bavaria, and deals with the evidential value, public value of organization's book; the question of functions of Hoheitstraeger and the au thority of the individuals. He says that the opinions and plans about Block and Cell Leaders which are set forth for propaganda reasons, that these concepts are highly exaggerated.

Then three more affidavits follow, dealing with Block and Cell Leaders which are Affidavit No. 14, which deals with an Amtsgerichtsrat, who deals wi the problem of authority. Then there is a farmer from Westphalia who was elected Mayor. He also states, dealing wit the sovereignty rights, that the did not exist with the Block and Cell Leaders and that spying activity never did take place.

Affidavit No. 15 is an affidavit deposed by a Kreisleiter at Moettling He gives a survey about the Block and Cell Leaders in his district and how t were comprised 40 per cent adjusted workers, 20 per cent small farmers, 20 p cent members of the various professions. He deals with the tasks involved in the giving out of food cards, that was the main point, and as far as the organization book is concerned, he said that that was just written down.

Affidavit No. 24, given by Karl Hederich, has been translated. It deals with the problem of the number of the political leaders, which I touched upon when I submitted my documents.

This witness was in the Reichsleitung of the party and he was the deputy for documents. He dealt with statistical material and he had to do summariz work there. The question which he treats in his affidavit he is well inform upon. Regarding the fact that only 600,000 people had been picked up, in his affidavit he shows, that the number of the political leaders in reality was at least one and one half million. He emphasizes in this connection that this figure is set very conservatively and that he had taken into consi- deration that one person might have had more than one office.

Affidavit No. 25 is a Commission Report No. 1, page 3602. It deals with the significance of the organization book, whose terminology seems to be a pillar of our proceedings here. He says that he had talked this mat over with the expert author of the book, that is the witness Lehnert, and that he stated that the book was not accurately producing actual facts but that these were to be developed along these lines in the future.

Then Affidavit No. 26 given by Foertsch. He is the former Gau Ortsgr ppenleiter of Munich, Upper Bavaria. He, too, says that the book was a pur theoretical work.

Affidavit No. 27 is the second affidavit by the same Hoderich just mentioned from the Reichsliatung, and the significance of the organization's book is described in detail on the basis of the personal knowledge of its origin.

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Affidavit 28 is the second affidavit by the Gau organization leader, Adam Foertsch mentioned, wherein he defines his attitude to the question, "What is the Corps of Political Leaders?" His statements tend to demonstrate the difference between the Dienststellung and the Dienstrank. He says only a fraction of those people had an office in the party and were considered to be political leaders. In the Gau mentioned, Munich and Upper Bavaria, 20% of the people who held party offices were political leaders, the balance of the 80% never were political leaders, therefore, you cannot give this legal consideration and a reduction in the number must be arrived at. Then he points out the granting of the title, "Political Leaders" and that the giving of the offices were carried out by various agencies.

Affidavit 29 was deposed by the Witness Davidts and states that the Reich speaker and the Gau speaker did not have any political rank or obligation.

Then, Affidavit 30 follows, which is a document by Alfons Schaller, who was a district leader at Cologne. He deals with the so-called family card index, which was in Cologne and states that because of the conditions regarding the taxes, most of the card filing system was destroyed. He said that a lot of these cards never had been filled out.

Affidavit 31 is deposed by Alfons Schaller and deals with political opinion. He states that the positions under the Kreis Leadership could not give any such opinions.

Then, we find a Document by Gauleiter Sprenger, which has been submitted by the prosecution, Document D-728. At that time I disputed the authenticity of the Document and various witnesses testified on behalf of the Document. Here, we have an affidavit deposed by a man who was the adjutant to the Gauleiter and for years worked with him. He says, according to his personal knowledge, that judging by the nature of these letters, they could not come from the source they are attributed to and he says the same thing.

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SIR DAVID MAXWELL-FYFE: My Lord, I am very anxious that the prosecution's case should rest on documents which are unchallenged as far as it is humanly possible. Therefore, rather than to have any dispute on the Document, the Prosecution will not rely on that document which is dealt with here.

DR. SERVATIUS: Mr. President, if I understand correctly, this Document D-728 by Spronger is being withdrawn. Is that correct?

THE PRESIDENT: Yes, go on.

DR. SERVATIUS: Then I will skip Affidavit 33, which deals with the Springer document.

Affidavit 34 is deposed by an Oberlandesgerichtsrat, who was in charge of one of the high party courts and he describes the rank. He states that party judges were not political leaders, but rather in 33 and 34 in the organization book, a change was made, according to which change they came closer to the party.

Mr. President, may I refer once more to the Document, which has been withdrawn, D-728. May the excerpt recorded from that document be stricken from the record?

SIR DAVID MAXWELL-FYFE: I make no objections, Mr. Lord. When I withdrew the Document, I withdrew it entirely from the record. Certainly.

DR. SERVATIUS: Now, I shall turn to the various departments (Fachaemter) which are departmental offices.

THE PRESIDENT: Go on, Dr. Servatius.

DR. SERVATIUS: Now, I shall turn to the affidavit dealing with the various departments, the expert offices in the staff and the various groups in the political leadership offices. In the staff of the functionaries for the various groups of offices, there were the regular political leadership office, the party administration office and then finally the professional and specialists offices. The specialists offices were annexed and in a disciplinary fashion were subordinate to the functionaries, but they received their instructions directly from the Reichs-

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loiters.

I shall begin with Affidavit 35 deposed by Schoen. He deals with the training material and the schools and also with the severing of connections with the church and in this connection, he says that this is prohibited. He says further that he never in any way or in any connection participated in any crimes against humanity. He testifies as to the activities connected with his office.

Then Affidavit 36 is deposed by Dr. Schulz of the Gau propaganda office in lower Silesia. In part he states and testifies as to the kind of information that was given out and how in the beginning of the war everything happened very rapidly and surprisingly. He further talks about the setting up of the DAF and his propaganda activities. He also states that only 4% of the people in office were salaried employees and 96% of them were honorary officials, also that 70% belonged to the Christian denomination.

The next group of affidavit deals with the party administration.

We have Affidavit 37 given by Karl Kuenzler, who was in the finance administration branch. He confirms the exclusive activities of finance and administrative matters and how they were kept away from all political tasks. The group of experts may be looked at in the way that they are the party liaison men. Then he explains the various expert counsellors and finally the office of welfare and public care, dealing with the Women's League (Frauenschaft) and Students League, which belong in this group. They are independent organizations, which have no connection to the functionary and officers and staff. They were the local leaders in the Gau and in the Kreis in their various capacities. Here before the commission, there were two female witnesses from the Frauenschaft, Westemacher and Paul and from the Dozenten Bund, Dr. Grudeber appeared before the commission.

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As affidavit No 38, we have an affidavit deposed by Mrs Kynass, Maternity Service (Muetterdienst). It says that she had no connection with the Gauleiter or one of his collaborators and she describes her responsibilities to her superiors.

As affidavit No. 39, a female physician testifying, Hildegard Brauns. She describes the activity of the Frauenschaft, Kreisleiterin and the Wiesemuenden and the way of the consultations, the way that they were carried out but on the consultations which did not deal with purely feminine matters, had to leave the room and they were never called in for political work.

Dealing with the group of the teachers, technicians, physicians and Reichleiters and educators and teachers, I cannot submit an affidavit as yet. For technical reasons it was impossible for me to do so.

For officials, I have the affidavit No. 40, deposed by Dr. Schenk, who also confirmed that when it came to conferences of the functionaries with their staff officers, these groups did not participate and he said that since 1943 the office for officials was cut off for their work was considered insignificant and unimportant.

Dealing with the Kreis matters for techniques, I have one affidavit given by Schoeneberger from Cologne, who describes his activity and mentions his sphere. He says that he was only called in so far as factual and expert opinion of a technical nature was required.

Affidavit 42 is from the Gau Pommern, Bruno Mackels, a man who makes statements along the same lines as the witness, before many Dienste, and said that our work had to be done without pay and along secondary lines.

Then the Office of Public Health follows. Here affidavit 43 applies, which was deposed by Dr. Alfred Sassa, head of a district public office. He says that the local leaders of the National Socialist physicians is legal -- at the same time with the leaders of these officers for public health. He describes the fact that as far as expert work was concerned, he was called for consulting purposes; that as far as the conferences of the inner circle was concerned, the physicians however were not admitted, so that they were not informed along political lines.

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Then the legal offices follo , deposed under affidavit 44, Dr. Steinhauser from Augsburg. He deals with the lawyers' work and tasks and he says that the legal offices who were annexed to the staff had no political significance since already in 1942 they were dissolved as being non-essential to the war effort.

Then a further group of expert offices, the DAF men, representatives of trade, economic consultants and delegates or r cial politics. In this connection, I should like to submit affidavit 45, deposed by a man of the DAF, whose name is Haller. He describes in detail just what the DAF men had t. do, what the position was and emphasizes exclusively social work was the only activity which was carried on in his sphere.

For the office trade, I cannot give you any affidavit for I have no witness at my disposal.

Then follows the affidavit No. 46, deposed by the former Reich Minister for Nutrition and Agriculture, Darre. He deals extensively with the development of the Reich Food Administration and clarifies in so far as how a Bauenfuehrer can be active in the party or how he can belong to the Reich Food Administration and shows that the Reich Food Administration was very very much independent of the party and was an independent unit which, up until 1942, could have and did have much independence of the party -- up until 1942. In detail, he expresses his views on various questions, such as towards the church and by the Bauernschaften.

Then I shall turn to the Office for Communal Politics. I have two affidavits; one deposed by Dr. Plank, dealing with Nurnberg. He says that th party concerned itself with the human leadership, whereas legal and administrative questions --

THE PRESIDENT: Dr. Servatius: I don't know whether Sir David Maxwell-Fyf was going to refer us to those passages in Goering's evidence this evening; maybe he was. Perhaps we better break off now because we may not be able to finish the whole of this affidavit summary. Were you, Sir David?

SIR DAVID MAXWELL-FYFE: I was going to inform your Lordship of the

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fact that we hadn't been able to find any passages in the examination of the defendant Goering. It extends over certain ones. I hoped we hadn't missed them but we have been through them and can't find them.

THE PRESIDENT: Yes.

SIR DAVID MAXWELL-FYFE: My Lord, that leaves the application of Dr. Stahmer in this position. The document that reference is made to is No. 008, which is a letter of the witness Sievers and it contains the sentence: "As I have informed you, the direction for carrying out the experiment is in the hands of the Director of the Hygienic Institute of the Reich University of Strasburg. Professor Dr. Haagen, Major in the Medical Corps and Consulting Hygienist to an air fleet, who was commissioned with this taks by the Reich Marshal, the President of the Reich Defense Countiel..."
That, my Lord, is the effect of it. The position is that when Fieldmarshal Milch was giving evidence, letters were put to him, on document 343-PS and the second of which, under date of the 31st of August, said that he had heard with great interest of the reports of Dr. Rascher and Dr. Romberg -- "I am informed about the experiments. I shall ask the two gentlemen to give a lecture combined with the showing of motion pictures to my men in the near future."

When your Lordship may remember that Fieldmarshal said that he was only acting as the signatory for his own medical inspection in the air force when he signed these letters and he couldn't remember anything about them. My Lord, that was the way the evidence was left. As to the rulings of the Tribunal, there are two that seem to be applicable. One was that when the Tribunal decided that the order should be final speeches of the defendants before the taking of evidence of the organizations, the Tribunal stated the 31st of May, that the defendants will be allowed to call to the attention of the Tribunal any circumstances developed in the hearing of the organizations which is thought to be helpful to their decense; and, my Lord, previously the Tribunal had laid down the general ruling that certain sub-paragraphs of their ruling of the 23rd of February do not limit the power of the Tribunal to allow a

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defendant to be recalled for further testimony in exceptional cases if, in the opinion of the Tribunal, the interest of justice so requires. My Lord, the prosecution feel naturally reluctant even to suggest to the Tribunal what is an exceptional case and what are the interests of justice in a particular case but, My Lord, they do want to make two points--one particular to this application and o in general. The point peculiar to thi application is that it was known, of cours when the defendant Goering went into the witness box that there were these lett in existence and that his second-in-command. Fieldmarshal Milch, had said that t medical inspection of the corps of the air force were dealing with these experiments and in touch with the SS on them. My Lord, as far as we can find, the matte was not pursued after that: therefore, at that time, the defendant had notice of the general position although not -- I wuite agree with Dr. Stahmer--with these particular experiments dealing with spotted fever. My Lord, the prosecution desi to emphasize this, that this procedure ought to be confined to exceptional cases where the interest of Justice requires this course very clearly. It would be unfortunate if this procedure of recalling w re to become common or w re to be deal with on any points which are not of primary importance. Your Lordship, of course, remembers that the English rule is that the procedure is only used for matters which are ex improviso. As I say, the prosecution here cannot say that the particular point of spotted fever is not ex improviso but the general position of experiments was brought to the defendant's attention before he gave his evidence ar therefore does not arise as an unforeseen point. I don't think that the prosecuti can help the Tribunal further regarding this matter.

THE PRESID NT: The Tribunal will consider the matter. On Monday the Tribunal will sit until one o'clock. After one o'clock, they will sit in closed session.

SIR DAVID MAXWELL-FYFFE: I am much obliged.

(The Tribunal adjourned until 19 August 1946, at 1000 hours.)